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APPENDIX I.

Anecdotal Report—Summary of Anecdotal Interviews and Public Hearing Testimony

INTRODUCTION AND BACKGROUND

This report sets forth anecdotes from personal interviews conducted by Holland & Knight, LLP relating to the contracting and procurement procedures and the DBE Program administered by the California Department of Transportation ("Caltrans"). Nearly one-hundred (100) interviews were conducted with participants including prime contractors, subcontractors, suppliers, professional consultants, engineers, professional service providers, official representatives from multiple trade associations, having a membership base comprised of thousands of minority, non-minority, female, and male business owners, and Caltrans officials and staff.

Businesses interviewed included those that are exclusively or primarily a prime contractor, exclusively or primarily a subcontractor, and some that are both a prime and subcontractor. The interviewees include minority-owned businesses, female-owned business, and non-minority, male-owned businesses. The interviewees are located throughout the State of California.

Potential interviewees were obtained from a random sampling of businesses generated by BBC Research and Consulting and stratified by procurement category and ethnicity/race and gender. All of the businesses who agreed to participate were interviewed. Most of the interviews were conducted with the president, CEO or an officer of the business, and some were conducted with a company representative. As each interviewee was scheduled, the business was assigned a number. The interviewees are referenced and identified in this report by their interview number.

The following trade associations agreed to be interviewed and provided anecdotes that are described throughout this report:

1. Asian Business Association (ABA) ¹
2. Black Business Association ²
3. Society of Hispanic Professional Engineers (SHPE) ³

¹ The Asian Business Association (CATA #1) is a trade organization that has been existence for over 30 years, and has between 300 and 400 members who are small business owners, primarily in Asian communities.

² The Black Business Association's (CATA #2) was established in 1972 and has a total membership of approximately 2,500.

³ The Society of Hispanic Professional Engineers (CATA #3) was founded in Los Angeles, California, in 1974 by a group of engineers employed by the City of Los Angeles. Their objective was to form a national organization of professional engineers to serve as role models in the Hispanic community.

4. Asian American Architects & Engineers, San Francisco Chapter (AAAE)⁴
5. American Subcontractors Association California, Inc., San Francisco Chapter⁵
6. Engineering & Utility Contractors Association⁶
7. Filipino American Society of Architects & Engineers, Southern-CAL (FASAE)⁷
8. Hispanic Contractor's Association⁸
9. Consulting Engineers and Land Surveyors of California (CELSOC)⁹
10. Asian American Architects/ Engineers Association¹⁰
11. National Association of Minority Contractors – Southern California Chapter¹¹
12. California Community Connection¹²

⁴ The Asian American Architects and Engineers of San Francisco (CATA #4) is a trade association for Asian architects and engineers, most of whom are the owners of their companies. The Association has been in existence for 29 years. Members work in the public and private sector. About one half of the association's members work in the transportation industry and are capable of working for Caltrans. Approximately 5 to 10 out of 80 of the association's members have done work for Caltrans, and another 1/3 of the members are certified as DBEs with Caltrans.

⁵ American Subcontractors Association of California, Inc., San Francisco Chapter (CATA #5) is a trade association specifically for construction subcontractors and suppliers. There are 70 members in the San Francisco Chapter, with hundreds of members throughout California. Roughly, 30-40% are minority or female owned. Roughly, 10% of their work is on Caltrans projects.

⁶ The Engineering and Utility Contractors Association (CATA #6) is made up of 400+ union-affiliated contractors and associate heavy engineering firms throughout California who employ over 25,000 workers. Its contractors work all over the western United States, but mainly in Northern California. With regard to operations, its members work as both prime and subcontractors, and in both the public and private sectors.

⁷ The Filipino American Society of Architects & Engineers, Southern California Chapter (CATA #7) is a professional organization of individuals of Filipino descent who have been educated and trained as architects and engineers, or in related fields of academic study. Membership in the organization, however, is open to all other individuals who are not of Filipino ethnicity. The association maintains offices in California and Guam, and its members work primarily in the private sector. The organization has about 200 members in California, and most of its members are not the owners of their companies, rather, they are employees of majority-owned companies.

⁸ The Hispanic Contractors' Association (CATA #8) is a San Francisco-based trade association. The association currently has 13 members.

⁹ The Consulting Engineers and Land Surveyors of California (CATA #9) is a 50-year-old, non-profit association of private consulting, engineering and land surveying firms. Some of the organization's 1,100 member firms are DBE certified, although that information is not tracked. In the public sector, approximately 70% of their members are subcontractors; the rest are prime contractors. The organization's member contracts are split 50/50 as between private sector and public sector, with half of that public sector work belonging to Caltrans. The average size of a member firm is eight (8) employees.

¹⁰ The Asian American Architects/Engineers Association of Southern California (CATA #10) is a trade association for Asian architects and engineers with approximately 200 members. The members work in the public and private sector, usually as subcontractors. 30% of their members who do Caltrans work is attributable to their DBE certification.

¹¹ The National Association of Minority Contractors, Southern California Chapter (CATA #11) is a non-profit trade association, established in 1969. The Southern California chapter has 60 members, not including suppliers and their major corporate supporters. The local chapter's members include African Americans, Asian Americans, Hispanics and Native Americans, about 50% of who are certified with Caltrans. The organization's members work in both the public and private sector.

¹² The California Community Connection Corporation (CATA #12) is a trade association representing African American businesses. It has been in existence for over five years and works with approximately 300 to 400 businesses in the Los Angeles area. These businesses deal mostly with the government (city, county, state, and federal), and work some in the private sector as well.

In addition, included in this report are a summary of the testimony provided by businesses, trade associations, and other organizations at the fourteen (14) Public Hearings (P.H.) held by Caltrans in March and April of 2007 in Los Angeles (2), Eureka, Stockton, Bishop, Fresno, San Luis Obispo, San Diego, Sacramento, San Jose, Redding, Irvine, San Bernardino and Oakland. Attendees at these Public Hearings were asked to relate their experiences concerning, but not limited to:

- Whether or not firms face difficulties or barriers when bidding as prime contractors, subcontractors, or suppliers;
- Whether or not business owners believe they have been treated fairly or unfairly based on their race, ethnicity, or gender;
- Whether or not prime contractors solicit or fail to solicit bids or price quotes from DBEs on non-DBE goal projects, non-government contracts and;
- Whether or not there is a level playing field for firms in access to capital, bonding, insurance and in prompt payment.

Also included in this report is written testimony submitted by multiple contractors in connection with the Caltrans Public Hearings.

This report includes summaries of anecdotes or perceptions regarding: certification; public and private sector work; Caltrans bidding process; experience working with Caltrans; the Caltrans DBE program, perceived barriers to participation with Caltrans; experiences with payment; experience regarding DBE utilization after May 2006; the existence or non-existence of barriers in the public and private sector; race, ethnicity and gender; participation in and awareness of race, ethnic, and gender neutral programs; and recommendations by the interviewees. The anecdotes gathered in this report provide a summary of the perceptions from minorities, women, and non-minority male contractors regarding their experiences with Caltrans and the Caltrans DBE Program.

SUMMARY OF ANECDOTES

Certification

Certification process.

The minority and female-owned businesses interviewed that were not certified provided reasons for not becoming certified. These reasons included that the process was too cumbersome, their certification had been denied, they saw no value to certification, were unaware certification existed, or they did not know how to become certified. Interviewee #54, a Hispanic male-owned firm, said he had no experience with Caltrans' certification process and did not know how to go about finding information on certification.

Most certified interviewees described the certification process as long and difficult. Interviewee #1, a Native American male-owned firm, said it was "difficult" to get certified. He said it took about six months "and that was after I submitted extensive really thick applications." He said it would be nice if the process was shorter, and noted that the people at Caltrans told him that they were understaffed. He said the application was straightforward although they required a lot of information. Interviewee #5, a white female-owned firm, characterized the process as "a mess." Interviewee #19, a

Hispanic male-owned firm, stated that getting certified "took an act of God," including a birth-certificate, various of proof of ethnicity, pre-signed papers and more to prevent falsification of DBE companies. Now, according to Interviewee #19, it is easier because of the reciprocity process.

A female-owned DBE who testified at a public hearing in Stockton stated that she certified through the California Uniform Certification Program (CUCP) and "it took about six months." "I had a stack of paperwork, maybe an inch. This is what we wound up having to put together for Caltrans to prove that I was a 51 percent owner of the company." She described the process as "repugnant" stating "I had to fully disclose all of my financials, plus all of my husband's financials." "Three years later we had to redo the whole thing all over again." "We made the decision not to pursue" recertification. (P.H. Stockton, 3/20/07).

Interviewee #33, a Hispanic female-owned firm, said that the Caltrans certification process "is okay" but felt Caltrans staff was "non-responsive." She often had to remind Caltrans of certain paperwork and that she was waiting for a response on something she had given to Caltrans three (3) months before the interview. She said delays by Caltrans in processing the company's certification and the company's name change caused problems, since it had to explain to other contractors that the company is certified as both an MBE and a WBE, but that Caltrans was behind on the paperwork.

CATA #2, an African American trade association, stated that the DBE certification process had been "fairly easy" for his personal business, but that he had to struggle with Caltrans to get the agency to recognize a category of petroleum supplier. He also said that the process is perhaps too intrusive, as Caltrans asks for things like the businesses' bank signature cards. Interviewee #56, a white male-owned firm, worked on certifications for his prior company, filling out recertification forms every year. He is familiar with the Caltrans certification questions and recalls the process being "lengthy." CATA #6, a trade association representing heavy engineering contractors, assisted one contractor in getting certified. She said it took that person over a year and number of trips to the Civil Rights Office, numerous phone calls that were never returned, and a thorough investigation of her financial background. The trade association representative described it as a very long, personal invasive process. According to CATA #6, the process discourages minorities and females from becoming certified.

Interviewee #27, an African American male-owned firm, felt that Caltrans certification process was "getting better." Apparently, the company was "in limbo" for "years" because it "took [Caltrans] forever" to get the company's recertification done. However, during this period Caltrans still allowed them to bid as a DBE. Interviewee #27 felt that Caltrans had since "improved some" and that "right now they seem to be on top of it."

Some businesses reported that the certification process is expensive. A certified African American female consulting firm stated at a public hearing in San Diego that "in order to get certified ... they need a CPA ... if you look at the certification document ... it's hairy ... I know people that own firms that simply refuse to get certified, and their attitude is that ... why should they subject themselves to that kind of exposure in terms of their financial information when firms that are owned by non-minority or non-ethnic groups are not required to do that? ... if there's no payoff at the end of a cost ... it doesn't make a whole lot of sense." (P.H. San Diego, 3/22/07).

At a public hearing in Los Angeles, a DBE consulting firm testified that the paperwork involved in certifying as a DBE or SBE is extensive. "I'm guilty of that myself because to this day, I haven't filled

out the paperwork to" become an SBE. But "if you push through the paperwork, you can take advantage of the programs." (P.H. Los Angeles, 4/4/07).

Several interviewees offered experiences with recertification. Interviewee #31, an African American female-owned firm, stated that the recertification was "burdensome," "cumbersome," and "slow." She stated that the company has been certified for a long time and that "being recertified should not be the issue that it is."

Interviewee #46, an Asian American male-owned firm, expressed frustration with the re-certification process, saying that this process involves "a lot of work," and indicating that it is rather difficult to find someone with whom he can speak in person and find out the status of his re-certification application. According to Interviewee #46, "you don't even really know what phone number to call anymore. You're always on hold. You don't really know where to begin. You just send your package in. You don't know if they've received your package or not." Interviewee #39, a Hispanic male-owned firm, stated that the recertification process was not "too bad" and said that the documentation and paperwork required "was not a huge problem." He recommended that Caltrans check-up and make sure that the people who are claiming DBE status "actually deserve the classification." Interviewee #57, an Asian American male-owned firm, notes that the certification process is "good" and "streamlined." He stated that the first time the process was burdensome, but that afterwards, it was mostly easy.

An African American female-owned firm who testified at a public hearing in Los Angeles stated, "I think there was some type of form that I needed to submit or a letter I needed someone to write to verify that I am an African American. I would think that a passport would be good enough for that." She described the process as "painstakingly long and tedious." (P.H. Los Angeles, 3/29/07).

Interviewee #8, a Hispanic male-owned firm, stated that "CUCP is a problem" and that "[i]t was pretty hard to do." According to Interviewee #8, he received recertification paperwork telling him he had to reapply within 10 days of the letter's date even though he did not receive the letter until 3 or 4 days after it was dated. He said that he has called the person with whom he had originally spoke at the CUCP, but that he "cannot get a hold of her to save [his] life," and that "she doesn't return phone calls." Interviewee #8 suggested that the DBE certification process could be improved by CUCP's establishing more branch offices so that businesses could visit them in person.

Most interviewees felt the certification process was ultimately fair. Interviewee #2, an African American male-owned firm, felt that registration as a DBE was time consuming, detail-oriented, but ultimately even-handed. On balance, he was glad that there was a lot to the process because this helped to keep out people who did not belong. His fear was that if it was too easy to get in, then there would be much more abuse and fraud. Given that he really was a minority-owned small business, he did not have any problem with having to prove this to Caltrans. Interviewee #46, an Asian American male-owned firm, stated that there was an "insurmountable" amount of paperwork required in order to become certified, but in the end he felt that this was "a good deal" because "it keeps . . . people that probably aren't deserving or just everybody from getting it." Interviewee #47, a white male-owned firm, has heard from minority subcontractors that the process is fairly smooth. His company has assisted DBEs in becoming certified and believes it is a fair process.

CATA #1, an Asian American trade association, thought that Caltrans' certification process was fair and that there is "no handicap in that process." He said that Caltrans had "substantially" improved upon the time it takes for businesses to get certified, shortening the time period from six months to a month or a month and a half. In his opinion, if Caltrans could further shorten the process, that would be even better.

Interviewee #4, a Native American male-owned firm, stated that the persons with whom he worked at Caltrans when dealing with certification process were "very helpful," and that it took about the same time and effort as it did to bid a job. Interviewee #81, a Hispanic male-owned firm, found the Metropolitan Transportation Authority (MTA) certification process to be fair. It was a tough process, but he expected it to be. He was lucky in that he had a very competent person from MTA guiding him through the process.

Some Interviewees described the Caltrans certification process as simple and straightforward (Interviewees #3, #10, #20, #21, #22, #23, #29, #48, #51, #59, and #61). Interviewee #3, an Asian American male-owned firm, believed the process was "pretty simple and straightforward." Interviewee #59, an African American male-owned firm, stated that it was a streamlined, straightforward process. Interviewee #61, an Asian American male-owned firm, stated that the Caltrans certification process is easy and that the turnaround time is quick. He did not find it to be overly burdensome. It took Interviewee #20, an Armenian male-owned firm, only one month to receive DBE certification. Interviewee #21, a Hispanic male-owned firm, stated that the certification process is fairly simple now because they have been certified for so long. Interviewee #22, an African American male-owned firm, stated that the company had no problems getting certified as a DBE, noting the getting certified with Caltrans is easier than figuring out how to work with Caltrans. Interviewee #29, a Hispanic male-owned firm, described the experience at "actually very good." He had the Los Angeles City certification, and under the reciprocity process, he was certified within a day or two.

Interviewee #51, a Hispanic male-owned firm, stated that he had had no problems with the Caltrans (or now the CUCP) certification process and that the paperwork "is simple enough if you sit down and do it." He thought that perhaps some people had problems because they do not understand what they are reading or do not take the process seriously. He said that recertification had not been a problem either, since the company had been in the ownership of his family for its entire thirty-five year history. He stated that though the Caltrans investigating process needs to be strong in order to discourage people from abusing or taking advantage of an idea that is "to help those people less fortunate that have the desire to work and want to improve their lives, . . . to do it on paper and complicate life by creating bureaucracy is certainly not the answer to anything."

Some interviewees expressed confusion over the interplay between Caltrans and other agency certification processes. Interviewee #67, a white female-owned firm, indicated that her experience with the DBE certification process was confusing and frustrating. According to Interviewee #67, she was first contacted by Caltrans and the Department of General Services regarding their DBE and WBE programs ten years ago. Five years later, she said, her file was sent down to Los Angeles from Sacramento. Next thing she knew, she was talking to people from the CUCP, who tried to explain the new "umbrella system." She is confused as to why she still received notices from Caltrans. Also, someone at Metropolitan Water District (MWD) said it had their own certification system, which Interviewee #67 believes is part of a network that includes the Port of Long Beach and the San Diego School System. Interviewee #67 stated that she sent written questions to a representative at Caltrans

regarding CUCP. Someone from Caltrans called her and explained that Caltrans certification process was now folded into CUCP, but she is still confused.

She attended a Caltrans workshop in Oakland in the fall 2001 where only three people stood up to say that they were DBE certified. At the workshop, Caltrans had tables set up so that firms could register on-site for DBE certification. Interviewee #67 was angered that she had put in so much time to get certified while other firms were allowed to register through what she perceived as an "instant DBE session." Interviewee #67 suggested that Caltrans could improve its certification program through better communication.

Some interviewees expressed frustration related to denial of certification. Interviewee #6, a white female-owned business, stated that the company applied for DBE certification in the early 1990s. The company was originally owned by Interviewee #6's father, but after his father passed away, ownership was transferred to his mother. The company submitted an application consisting of a 3-ring binder to Caltrans, but, according to Interviewee #6, a Caltrans employee simply disregarded it and "threw it away." The company wrote a letter to Senators Diane Feinstein and Barbara Boxer complaining about the situation. Interviewee #6 felt that Caltrans "made a mockery" of his mother and him, since they spent months putting the application together and received back only an empty binder. The company has not sought DBE (or similar) certification with any other agencies. Interviewee #50, a white male-owned firm, tried to certify his business as a WBE. At the time, there was a requirement that if his wife owned less than 51% of the business, one had to show exactly what tasks she performed. So, Interviewee #50 changed the ownership of the business to be 100% in his wife's name, but the process was simply too complicated and he ultimately said, "forget it." He had a lot of business at the time, so he decided there was no need to get certified.

Interviewee #68, a self-described "mixed-race" male-owned business, was refused certification by Caltrans even though his mother's birth certificate identifies her as "colored." A person at Caltrans told him that he did not qualify for DBE certification because he did not "live [his] life as a Black man." According to Interviewee #68, this person could not define for him what this phrase meant, and was "very racist." Interviewee #68 said that he argued with this person and eventually got his local Congressional representative involved, but that he later let it go because he understood that having DBE certification would not help his company get work.

Interviewee #63, a white male and female co-owned business, was denied certification because the name of the business suggested it was owned by the husband. The denial took 1.5 years to be decided. They were told they could appeal but they let it go.

One witness expressed frustration due to being unjustly decertified. A decertified DBE stated that they have been decertified unjustly and "there should be a study done on the agencies who [are] allow[ed] to misuse their authority to certify firms – or decertify, in our case." (Written testimony submitted 3/21/07).

Perceived value of certification.

Some DBEs recognized a value to certification. CATA #12, an African American trade association, is also the sales manager of a business owned by an African-American woman that sells office products/supplies and computers (and of which he used to be the owner). He attributed "quite a bit"

of the company's business to its DBE status, stating that the DBE program works as an advantage because business is business as usual and business as usual is usually the good ole' boy system.

A WBE submitting written testimony stated: "I put a lot of my success on having the WBE status and being involved in the various associations [NAWIC and AGC of San Diego]." (Written testimony submitted 1/26/06).

A certified DBE submitting written testimony stated it did not start receiving inquiries and unsolicited requests for proposals until after it received its Caltrans certification, and, only then, on DBE participation goal contracts. He stated: "The program certainly has enhanced our firm's ability to enter and achieve some degree of success in the public sector contracting market." (Written testimony submitted 4/12/07).

Some DBE firms questioned the value of certification based on the fact they had not received any more work after becoming certified. Interviewee #13, a Pakistani male-owned firm, has been "pretty successful" in the public sector, but not with Caltrans. Interviewee #13 stated, "Despite all the effort and money spent getting DBE certification [from Caltrans], I have not received to the best of my memory any direct contract from Caltrans. I have responded to their RFPs. I'm a very qualified person, and my company [is] very qualified, but I don't know why we don't get work from Caltrans."

Interviewee #31, an African American female-owned firm, questioned whether the DBE certification process was worthwhile, considering the amount of work that his firm and others receive as a result of being certified – "What is the benefit of being certified by Caltrans or by any other agency when they are not promoting utilization anyway?"

CATA #3, a Hispanic trade association, stated that the DBE certification process consumes a lot of a businesses' time and resources because of the paperwork and documentation required. "Not too many people want to be DBEs anymore . . .," said CATA #3, because of the process and/or because they are not aware of any need to. He said that more of the association's members would get certified if being certified and participating in the program were more rewarding.

CATA #7, a Filipino trade association, reported that only about ten of their 200 members are certified as DBEs with Caltrans.¹³ Historically, the program does not work, "it's a lip service." Major primes team up with the same firms over and over and they do not reach out. Nonetheless, he feels there is value in certification. It opens some doors. CATA #7 is glad to see more unification with the certification process. Small businesses do not have the resources to get certified with multiple agencies.

A female-owned DBE testified at a public hearing in Eureka "it was approximately five years ago that I applied to become a DBE." She was asked to certify to help the prime on her project meet the goal. She stated, "Since that time, I've probably been contacted I would say four times by contractors looking for a DBE on a project. And usually it's . . . for some engineering services on a proposal that was due in a very short period of time. So it really wasn't even anything that I could respond to." "I really haven't gotten any work because of being a DBE." (P.H. Eureka, 3/20/07).

¹³ Note most of the 200 members are not owners of their companies but rather employees at other firms.

A white female-owned DBE testified at the San Luis Obispo public hearing that she let her certification expire. "We made the decision then not to go forward, because, in our minds, we weren't getting any benefits at all from Caltrans ... We did not feel that, even though I'm a female, that we had any barriers against the bidding process because we're getting the work anyway." (P.H. San Luis Obispo, 3/20/07).

A small DBE information technology consulting firm who testified at a public hearing in Los Angeles stated: "If this program was a requirement, we would see return on the hundreds of hours that we've spend being awarded the DBE. It would be easier to market our DBE. We wouldn't be used to win work" and "cut" later by the prime contractor. "Again, we strongly believe that if DBE is a requirement and not just a goal, the purpose for which it was designed, for highly qualified firms like ours to get our foot in the door – would be worthwhile." (P.H. Los Angeles, 3/29/07).

An African American consulting firm, testifying at a public hearing in San Diego, did not see the value in certification, "the idea of having to fill out more paperwork or more documentation, it just wasn't worth it ... if you go through the hoops to get certified ... they just weren't paying any attention to you." (P.H. San Diego, 3/22/07).

A Hispanic female-owned consulting firm stated, at a public hearing in Los Angeles, "most DBEs said they don't have interest in maintaining [certification] ... because they were inundated with faxes and calls that did not materialize into any real opportunity." (P.H. Los Angeles, 4/4/07).

A minority female-owned business testified at a public hearing in San Bernardino that the company has not received work in the public sector since certifying six months ago. "We check the various agencies' web sites regularly, we read the newspapers, and any time we hear a proposal that fits what we do then we submit our bids for those, and we've gotten none out of four or five." (P. H. San Bernardino, 3/20/07).

Some DBE firms explained that having certification can act as a barrier as opposed to a benefit due to assumptions that DBE firms who seek certification are less qualified. Interviewee #43, a Native American male-owned firm, believes that some of those he has interacted with recently have shied away from doing business with him due to his certifications. He suspects that it may be the case that minority-certified businesses' work could be perceived as being of lower quality, or that businesses are reluctant to engage with them because they have been "burned" by DBEs in the past. Similarly, Interviewee #59, an African American male-owned firm, stated that DBEs are perceived as not being qualified to do work and this has a tangible effect on the award of projects. CATA #1, an Asian American trade association, stated that he had no personal experience with stereotyping but heard comments by a federal agency employee (from the Small Business Administration) seven or eight years ago that "DBE" was synonymous with "not qualified."

Interviewee #7, a white female-owned surveying firm, said that "there's definitely a stigmatism with being a DBE because it automatically gives the impression that you're new, [that] you don't have any experience, and that there's a risk in hiring you" She stated also that this stigmatism is "really hard" for them to offset, and that "[u]nless there is a [DBE] goal on a project, we do not tell anybody that we're DBE or minority-owned because of the stigmatism associated with it."

Recommendations regarding the certification process.

Some interviewees would like to see unification of certification among different entities.

Interviewee #32, an Asian American female-owned firm certified through the CUCP, recommended standardizing the certification process. She described "[a]ll of those certification processes" as being "so long" and said that "[i]t would be great if it was standardized." She said that a lot of paper was wasted and that she did not see a need to be certified, as she put it, "by the feds and by the state and by this agency and that agency. It's ridiculous." She also noted that it was expensive for small businesses to get certified, saying that it costs on average \$500 each time.

Similarly, Interviewee #14, a white male-owned firm, recommended one certification for all local agencies and Caltrans. This would reduce certification-related costs and insure consistent application of the rules. Interviewee #14 stated that differences between programs made compliance expensive and needlessly complicated. With one certification the company would only have to know how to operate in one system rather than many. He suggests that the MTC develop a region-wide DBE program that all the local agencies would then adopt.

A small DBE information technology consulting firm who testified at a public hearing in Los Angeles stated: "The largest challenge I had with [certification] was when the transition happened. I have three certifications. When the central unified came in, it wasn't clear if it covered WBE, SBE, and DBE. Those certifications expired at different times as well. So I was very nervous and very concerned at that time that I was covered." (P.H. Los Angeles, 3/29/07).

At a public hearing in San Diego, an African American DBE consulting firm expressed frustration that "there is so many different agencies you have to potentially get certified with – and then too, you have to maintain them." (P.H. San Diego, 3/22/07).

Some interviewees suggested fewer requirements upon recertification. While waiting for recertification, Interviewee #31, an African American female-owned firm, was being considered as a potential member of Caltrans project design teams. Interviewee #31 suggested that Caltrans could improve its recertification process by requiring only that businesses submit a certified affidavit saying that nothing had changed regarding a company's ownership. Interviewee #49, an African American male-owned firm, said that the Caltrans certification process was "a little difficult" and that "some of the things that they . . . ask for . . . went a bit farther that was needed" He also said that firms had to "turn around and do the same all over again, which, if there had been no change, should be unnecessary." His only recommendation for improving the process was to allow businesses to certify that their business ownership and the like has not changed in the past year (or whatever the renewal period may be).

Some interviewees would like help becoming certified (Interviewees #8, #46, and #81).

Interviewee #46, an Asian American male-owned firm, who expressed considerable confusion over the certification process, suggested that Caltrans have outreach personnel that contact companies by their type of work (e.g., electrical engineering companies) or by name (e.g., company names that begin with certain letters of the alphabet). A small DBE information technology consulting firm who testified at a public hearing in Los Angeles stated: "I think many, many people are still very confused about the certification process . . . I usually wind up having to explain it to the primes. They don't know the difference between an SBE, a DBE." (P.H. Los Angeles, 3/29/07).

One trade association suggested that Caltrans require all businesses to obtain certification before working with Caltrans. CATA #2, an African American trade association, believes the DBE certification process is unfair because only DBE firms are required to be certified. DBE firms have to spend precious time and resources dealing with paperwork and a process that non-DBE firms do not have to deal with. CATA #2 suggested that in order for the program to be administered more fairly, all businesses should be required to be certified – whether as a DBE or a non-DBE firm – before they can do business with Caltrans. That way, said CATA #2, the certification program has integrity.

One trade association suggested streamlining the certification process. CATA #3, a Hispanic trade association, suggests Caltrans allow businesses to self-certify with a one page form and impose fines and/or imprisonment as punishment for false reporting. He said that though someone would have to enforce this regime, he thought that it might be more cost-effective for both the agency and applicants than the current, paper and time intensive system.

One witness testified that it would like to see more aggressive percentage requirements for major consulting firms who contract with DBEs and WBEs. A certified WBE / DBE stated: "It would be very helpful if the certification program here in California was more aggressive in the DBE/WBE percentage requirements when contracting out design work and in linking up major consulting firms with the smaller minority and women owned businesses." (Written testimony submitted 3/14/07)

Public and Private Sector Work

All the interviewees were asked to relate their experiences, perceptions, and anecdotes in connection with public and private sector work opportunities.

DBEs as prime contractors.

A majority of the minority or female-owned businesses work primarily as subcontractors. These businesses offered a variety of reasons for working primarily as subcontractors, including that they were too small to bid as primes, that they preferred to work as subcontractors, and that they could not afford the capital expenditures required to be a prime contractor.

Many interviewees only knew of a few DBE primes working in the public sector and few could recall ever having worked with a DBE prime. Interviewee #17, a white male-owned business, stated there are "very few" DBE contractors doing public sector work, explaining "[u]sually DBE contractors are small firms, one to ten people. They're not capable of doing large jobs like [those for] Caltrans." Interviewee #66, a white male-owned business, said that he "know[s] a few" DBE firms working as prime contractors for Caltrans and that they hauled rock, sand, and pavement. Interviewee #33, a Hispanic female-owned business, stated that she did not monitor whether any prime contractors working for Caltrans are DBE firms, but her observation was that "most of [her] primes are not DBEs or any BEs at all." Interviewee #34, a white male-owned business, was not aware of and/or could not think of any DBE firms that worked for Caltrans as prime contractors. CATA #1, an Asian American trade association, said there are "some" but "very very few" DBE firms working as prime contractors on Caltrans jobs. This happens only when there is a "major push" in the community and then one or two DBE firms get a small contract as a prime. Similarly, CATA #7, a Filipino trade association, sees very few DBE primes. Interviewee #70, a white male-owned firm, did not know of any DBE prime contractors.

Interviewee #30, an Asian American male-owned firm, observed that if a DBE is able to obtain prime work, it is probably getting bigger and bigger, and eventually the DBE grows out of the program. He knows of a few firms that have successfully graduated, but have had difficulty in maintaining non-DBE status, partly because they got their work due to their DBE status. Once they graduate out, “they’re playing with the big boys and nobody wants to pick them anymore,” not because they do not do good work, but because they are not DBE to fulfill the goal. Interviewee #30’s main core work does not depend on DBE status.

Some minority-owned businesses reported that they are unable to receive prime contracts in the public sector because the jobs are too large. Interviewee #57, an Asian American male-owned firm, has not been successful with large, private projects. He stated that he can work as a prime on the small projects but they are “fillers” that are not as profitable. In the public sector, the work is too large so he works as a team member or a subcontractor for a prime. Interviewee #61, an Asian American male-owned business, functions as a subcontractor on Caltrans work because it is not large enough to function as a prime. As a private engineer for residential customers, the company does design for additions and renovation retrofitting, as opposed to the public sector where the company does engineering and civil project and construction management. More anecdotes regarding the size of public sector jobs can be found at Section III.E.1.

Some DBEs reported working primarily as subcontractors due to financial limitations.

Interviewee #81, a Hispanic male-owned business, believes there is a lack of opportunity for small firms in both sectors. The average price range of his contracts in the public sector is \$250,000.00. This DBE works primarily as a subcontractor in both sectors because he cannot afford to bond his work. Interviewee #59, an African American male-owned firm, stated that he has functioned as a prime contractor on a couple of airport projects, but that he mostly functions as a subcontractor because he has very few business development dollars. Interviewee #59 leads teams, writes proposals, and organizes workers, but cannot obtain the funding necessary to move to the next level. He feels he does not have the right connections with the banks. Interviewee #19, a Hispanic male-owned business, has “come close” to bidding work as a prime, but is not sure the firm is ready. The company does not have a large marketing division, and there is a lot of work involved in putting together a package.

Interviewee #29, a Hispanic male-owned business, tried to do more prime work by forming a limited liability corporation in 2001. He hired people, paid the workmen’s compensation, and made sure that he satisfied all the requirements to avoid having the answer that they like him “but [he does not] have this or that.” This DBE describes his experience as: “it was expensive and I’ve never gotten anywhere.”

Some minority-owned businesses did not believe there were opportunities for small businesses to act as primes in the public sector. Interviewee #33, a Hispanic female-owned business, stated that the company works most of the time (about 60%) as a subcontractor in the public sector and that on Caltrans jobs it works primarily as a subcontractor to engineers. According to Interviewee #33, the company works as a sub on these jobs because, “Caltrans is very engineering-oriented and generally the engineers like to be in charge,” and “everything flows from the engineering contract.”

Interviewee #8, a Hispanic male-owned business, felt that his business had been successful in getting work in the public sector, including work for Caltrans, but works 80% of the time as a subcontractor – “it just seems that we get more work as a subcontractor than as a prime contractor.”

CATA #3, a Hispanic trade association, stated its members work mostly as subcontractors and he had not seen any Hispanic-owned firms working as prime contractors for Caltrans, at least not in the professional services area. According to CATA #3, few members go after Caltrans work because most members feel that Caltrans' doors are not open and do not believe that work opportunities with Caltrans are anywhere close to what they should be. CATA #3 said that he knew of a couple of non-Hispanic DBE firms doing prime contractor work for Caltrans (a female-owned business that does striping work and business owned by a representative of the Small Business Council).

Interviewee #58, a white female-owned company, functions more as a subcontractor than a prime contractor in the private sector because major companies tend to contract with very large primes and use the same one over and over. Interviewee #58 maintains its competitive position by bidding for the few major primes.

Some DBEs reported that they act as subcontractors because Caltrans or other agencies do not directly contract for their type of work. Interviewee #46, an Asian American male-owned business, works as a subcontractor for Caltrans. His company performs lighting for roadways, fences, and guardrails for Caltrans. Unlike schools that use construction managers to break down their contracts by category of work, Caltrans hires a general contractor for its projects and relies on them to break the work up and subcontract out the smaller jobs.

Similarly, Interviewee #51, a Hispanic male-owned business, said that the company works mostly as a subcontractor in the public sector and on Caltrans projects because of the nature of the work it performs. Caltrans does not award waterworks contracts directly but instead lets the prime contractors subcontract out this work. Along the same lines, Interviewee #31, an African American female-owned business, stated that the type of work the company does in the public and private sectors is "exactly the same," but the company is primarily a prime contractor in the private sector and a subcontractor in the public sector because agencies do not directly contract for utility work.

Interviewee #39, a Hispanic male-owned firm, stated that the company always works as a subcontractor on all of its work because of the nature of the business – the prime contractor buys the steel and other materials and then calls the company to install the steel reinforcement.

Some DBEs report success working as prime contractors in the public sector. Interviewee #1, a Native American male-owned business, has done some work as prime contractor for Caltrans; these projects are fairly small and are local. For example, Interviewee #1 did water testing at a rest area near his laboratory. This contract came through a local Caltrans office. CATA #2, an African American trade association, said there were "quite a few" DBE firms working as prime contractors on Caltrans jobs before the passage of Proposition 209, but they are all out of business now. He said that he knew of only one DBE currently doing prime work for Caltrans, listing an equipment rental company owned by an African American male.

Interviewee #10, an African American male-owned firm, works primarily as a subcontractor in both the private and public sectors, because that is how the business is licensed. The company sometime works as a general contractor in the public sector and has worked as a general contractor for Caltrans. He notes, that in the public sector, he is required to pay his workers more than in the private sector due to prevailing wage requirements. Interviewee #5, a white female-owned business, and Interviewee #9, a white male-owned business, stated that there were "some" DBE primes.

Some DBEs report success working as prime contractors in the private sector. Interviewee #33, a Hispanic female-owned business, who acts as a prime 80% of the time, felt that the company had been successful in getting private sector work, but she noted that private sector work was slower now because a slump in the building and housing market. Interviewee #44, a Middle Eastern male-owned firm, reported success in the private sector working primarily as a prime contractor on contracts ranging from \$300,000.00 to 700,000.00. Interviewee #61, an Asian American male-owned firm, reports he is very successful in the private sector and works primarily as a prime. As a private engineer for residential customers, the company does design for additions and renovation retrofitting, as opposed to the public sector where the company does engineering and civil projects and construction management. CATA #9, an association of consulting, engineering, and land surveying firms, stated that in the private sector, most of their members work as a prime doing site-design or surveying or building design.

The representative of CATA #2, an African American trade association, stated that his company works mostly as a prime contractor in the public sector, where he felt that it had been "fairly successful." He said that his company only bids jobs where it can make money and thus does not get as many jobs as his competitors who bid public sector jobs "just to keep the trucks running." Interviewee #5, a white female-owned business, works primarily as a prime contractor for both its private sector and public sector work. Interviewee #5 prefers to work as a prime contractor because it likes to have control over the money and because of the size-driven nature of the work.

Interviewee #49, an African American male-owned firm, stated that he used to do work in the private sector, but that he had shifted entirely to the public sector "a while ago," and now does all of his work there. Interviewee #49 felt that he had been successful in getting work in the public sector and that his company works mostly as a prime contractor there, with the contracts for its jobs going up to \$3 million. He said that he knew of some DBE firms working as prime contractors on Caltrans projects but that they were not local firms.

Some interviewees stated that working as a subcontractor allows a firm to avoid bonding and other requirements. CATA #11, a minority trade association, has only one member out of sixty, an engineering contractor, who works as a prime on Caltrans projects. Rather, most of his members act as subcontractors in the public sector. According to CATA #11, it is easier in a sense to be a subcontractor since "you don't have to get a bond ... you don't have to go through the bidding requirements, getting a lot of sub-quotes, ... all you do is find your scope of work and give your bid to the general contractor."

Interviewee #27, an African American male-owned firm, stated that the company works primarily as a subcontractor in both the public and private sectors, and characterized himself as "successful" in both sectors. According to Interviewee #27, the company works as a subcontractor because he started out as a subcontractor working for some local companies and "just liked the way it was and . . . never changed it." Interviewee #27 stated that "it works" for the company to be a subcontractor because there are a lot of requirements, like bonding and accounting, that they do not have to deal with but which they would have to deal with were they to work as a prime. According to Interviewee #27, the company would probably have to bring in more office help in order to work as a prime.

Interviewee #14, a white male-owned firm, prefers to subcontract for Caltrans because of the cost and effort involved in bidding. It is more convenient to allow other firms to go through that hassle and then to subcontract with those firms rather than to try to be a prime contractor. Interviewee #76, a

white male-owned business, will not bid Caltrans projects as a prime because of all the requirements, in particular the bonding and DBE requirements.

CATA #11, a minority trade association, indicated that most of his members act as subcontractors in the public sector because "you don't have to get a bond ... you don't have to go through the bidding requirements (getting a lot of subcontractor-quotes) ... all you do is find your scope of work and give your bid to the general contractor."

Anecdotes of DBEs regarding private sector work opportunities.

Most minority and female-owned firms interviewed reported success in the private sector.

Almost all of Interviewee #2's work is on private contracts. Interviewee #2, an African American male-owned business, prefers private as opposed to public contracting work because he gets paid faster. The company has stuck to subcontracting rather than bidding as a prime largely because of its focus/specialization on excavation, foundation, and paving work. He stated that he does not solicit work from private contractors. Rather, they come to him because of his reputation for doing high quality work. Interviewee #3, an Asian American male-owned business, reports that the company targets project contracts for \$3 million and under in both the public and private sector and has been successful in both arenas.

Interviewee #19, a Hispanic male-owned business, stated that the company has developed an established client base with both private and public entities over the last five years. With private companies, Interviewee #19 stated that the most important factors are cost, efficiency and ability to provide timely service. In the private sector, Interviewee #20, an Armenian male-owned business, explains that he gets all of the jobs by referral and repeat customers. He does not place any ads because over the last sixteen years, he has built relationships with every contractor that he has ever worked for.

Interviewee #22, an African American male-owned business, works extensively in the private sector, although this part of their business has only developed over the past decade or so. Interviewee #22 works exclusively as a prime contractor on their jobs and typically does architectural and landscape work in the private sector for large developments. Interviewee #22 feels that this type of work was harder to break into for minority-owned businesses simply because of a lack of private developer contacts when he started out.

Interviewee #51, a Hispanic male-owned firm, has been successful in getting work in the private sector, where it works mostly as a subcontractor to either prime contractor or a builder-developer. He has chosen to focus on private work for the past three to four years, but said it is difficult for his company to compete against non-union firms in the private sector where there is no prevailing wage requirement. Interviewee #54, a Hispanic male-owned firm, said that he had been successful in trying to get work in the private sector and stated there is "always room for more." He also said that the amount of available work had been declining over the past couple of years, and that this was the case for everyone. He works equally as a prime contractor and subcontractor.

Interviewee #7, a white female-owned surveying company, works primarily as a prime contractor in the private sector. She said that private sector projects are generally broken into smaller jobs. Interviewee #13, a Pakistani male-owned firm, characterized his attempts to get work in the private sector as "pretty successful." Interviewee #42, an African American male-owned firm, stated he is

successful in the private sector because of his good reputation in building and demolition. He works primarily as a subcontractor.

Some minority and female-owned firms reported greater success in the private sector because there is less competition, more profit, greater accessibility, and less bureaucracy. Interviewee #43, a Native American male-owned firm, believes that business in the private sector is generally easier than the public sector. Most of his business is private sector, and their largest projects have been private sector projects. He believes that the marked competition in the public sector tends to drive prices down. The reason most of their work has been private sector is because they are awaiting issuance (within 2 weeks) of certain licensing (the General A Engineering State Contractors License) that he believes “we really need to have . . . before we can function as a prime.” Interviewee #67, a white female-owned firm, said that the company works as a prime contractor in both the private and public sectors and that its pricing is done on a set schedule based on quantity. She said that the “private sector is much easier to deal with . . .” and felt that the company had been very successful in getting work there.

CATA #2, an African American trade association, has been “very successful” in the private sector, which he found to be more accessible than the public sector because there is no bidding involved and the company need only demonstrate the quality of its product and services. He stated that the company's “contracts” in the private sector are actually purchase orders and that the company sells fuel on a quantity basis (by the gallon). CATA #7, a Filipino trade association, stated its members are successful in the private sector. The “experience” criteria in the public sector close the members out of a lot of the public sector opportunities. It is often easier to get work in the private sector and negotiate a fee. And the fees are generally higher in the private sector.

CATA #3, a Hispanic trade association, said that he had been “pretty successful” in his attempts to get work in the private sector, and that the Association's members had also done “pretty well” in the private sector. According to CATA #3, a lot of the members preferred private work to, or simply did not try for, public sector work because government work involves bureaucracy and certifications. CATA #6, a trade association representing heavy engineering contractors, said its members have been successful in the private sector – “Typically, the private sector is more profitable” due to the bureaucracy in the public sector. The more red tape the more expense, “good faith effort is part of that.” Interviewee #58, a white female-owned business, has focused on the private work because the projects move faster.

Interviewee #2, an African American male-owned business, prefers private to public projects because of the ability to get a contractor's lien in the event of non-payment for his services on a private project.

Some minority and female-owned companies reported difficulty obtaining work in the private sector. Interviewee #84, an African American male-owned business, went into business as a fuel supplier “because he saw this advantage” in the DBE program. He stated that small fuel suppliers cannot compete in the public sector or the private sector without the government “giving you the opportunity.” He has received only one public sector contract and no private sector contracts in the last two years. Due to the suspension of the DBE goals, he is going bankrupt. Interviewee #23, an Asian American male-owned business, has had little to no success in the private sector and believes that this is because private sector projects are not required to support small or minority businesses. Interviewee #31, an African American female-owned firm, described the private sector as “tough,”

particularly in San Diego, and noted that the majority of the firms in their sub-industry were "fairly conservative." Interviewee #59, an African American male-owned business, has been struggling in the private sector, which is why the company is currently down in size. Interviewee #38, an Afghani male-owned business, has had negative experiences working in both sectors.

Interviewee #25, a Hispanic male-owned business, stated that it is "pretty hard" to get work in the private sector. Because his company is small, he said, the big companies take most of the jobs and call his company whenever they need "just a little." He also stated that "I'm surprised we're surviving." The primes pay different prices based on the length of the haul. According to Interviewee #25, "they pay whatever they want. They say, I'll pay this amount and this is it" He stated that sometimes he attempts to negotiate better rates with these companies, but that "most of the time they don't accept it."

Interviewee #32, an Asian American female-owned business, felt that the company had been largely unsuccessful in its attempts to get work in the private sector, and she attributed this lack of success to developers and other companies using firms with whom they had been working for a long time and having "no incentive . . . to switch."

More anecdotes regarding the good ole' boy network as a barrier to receiving work in the public and private sectors can be found in Section III.I.2.

Anecdotes of DBEs regarding public sector work opportunities.

Experience in the public sector:

Most DBE interviewees, including most minority and female-owned interviewees, reported success in the public sector. Interviewee #21, a Hispanic male-owned firm, has years of Caltrans experience, but on a day to day basis, most of its work is in other public agencies, doing repairs of paving and road improvement work. Interviewee #22, an African American male-owned firm, works for a wide variety of local public agencies including BART, MUNI, the City of Oakland, and the San Francisco Airport Commission. The company has successfully won contracts as a prime on numerous occasions. The business developed first because of his contacts in government, acquired while in college, and because of help from his father.

Some DBE interviewees believed their success in the public sector was related to their status as a DBE, others did not believe certification accounted for their success. Interviewee #19, a Hispanic male-owned firm, believes that about 10-15% of their work (about 1/2 of the public projects) is directly related to its DBE status of their public work. He notes that none of their private work is attributable to their DBE status, rather in the private sector the most important factors are cost, efficiency and ability to provide timely service. To the contrary, Interviewee #29, a Hispanic male-owned firm, who acts primarily as a prime and works almost exclusively in the public sector, feels that he has not received any work due to the DBE certification. A white female owned firm stated that prime contractors do not "normally" solicit bids from DBEs. "We are only asked to be on the team if there are DBE requirements by the owner." (Written testimony submitted 3/26/07).

More anecdotes related to perceptions of DBE certification as valuable can be found in Section III.A.2.

DBE interviewees reported a variety of obstacles to pursuing work in the public sector, including contract size, payment delays, bonding/insurance issues, prevailing wage requirements, and bureaucracy. CATA #11, a minority trade association, believes its members are less successful in the public sector due to the rules and regulations, including certified payroll and bonding and insurance requirements. Interviewee #20, an Armenian male-owned firm, does very little public sector work and has not done any work for Caltrans. He was burned on a contract with a local school system where he did \$20,000.00 of extra work, but was not paid for it because he failed to file the proper change order. Interviewee #20's main issues working in public works are: (1) "so much paperwork," which is "driving us nuts"; and (2) the delay in payment. Interviewee #73, a white male-owned firm, stated that the turn-around time for payment in the public sector is worse than the private sector. In addition, there is a lot of "red tape" in the public sector and the administrative time involved for any one project is four times longer than in the private sector. Furthermore, companies are required to bond their work in the public sector, which Interviewee #20 does not like to do. For these reasons, he avoids public work.

Interviewee #24, a white female-owned firm, has not been successful in the public sector. She believes it is because she will not play "political games." She refuses to "smooze." She sees the good ole boys club as an obstacle to receiving work.

One sub-contractor stated that general contractors "go out of their ways to hurt a small contracting firm. We have instances where the special spec's had to be re-written because of the abuse of the general contractor." (Written testimony submitted 3/12/07).

A certified WBE / DBE specializing in railway, rapid transit, and light rail signal system design stated: "I have been contacted by all kinds of construction type firms for [unrelated projects] but not one project that is even remotely close to [her area of expertise]." She has had great success in Illinois and Oregon but not in California. (Written testimony submitted 3/15/07).

More anecdotes regarding perceived barriers in the public and private sectors and for working with Caltrans can be found in Sections III.E and III.I.

Some interviewees reported greater success in the public sector for various reasons. Interviewee #3, an Asian American male-owned firm, feels that the public sector demands more professionalism than the private sector since there are a lot of professionals bidding, but noted some issues with delay of payment and inspection requirements with respect to public sector work. The company does the same type of work in both sectors, but indicated that the size and the price of its private sector jobs are generally less than those of the jobs it does in the public sector and for Caltrans. Interviewee #11, a Native American male-owned firm, is more comfortable with the "structure" of the bidding process in the public sector than the "relationship" basis for private projects. For this reason, it does not engage in much private sector work. The company's private sector work is usually on large projects of mostly over \$100 million in value. The company's public sector work ranges from about \$50-\$70 million in value for prime contracts, and when the company has acted as subconsultants the projects are usually in the billions. Interviewee #39, a Hispanic male-owned firm, works almost exclusively in the public sector due to the nature of its work – "[v]ery few people are building their own bridge."

CATA #12, an African American trade association, said that working in the private sector is often difficult, and that though working in the public sector is easier than working in the private sector, the public sector could be easier if conflicting laws and regulations did not make things harder and

confuse buyers. According to CATA #12, "It's a challenge any way you go" But, he said, Caltrans is a lot better than other government entities and is "one of the ones trying to do it as fairly as possible." Asked about whether any DBEs were working as prime contractors for Caltrans, CATA #12 responded that "not that many . . . get opportunities from a contractual standpoint" He added that "[r]ace-neutral doesn't even open the door for opportunity." He also said that Caltrans is at least trying (whereas others are not), and with the right opportunities, Caltrans can set a good example. He further added that if it were not for Caltrans, some of the companies with whom he works would not get any business at all, and that others would not do as well as they do now.

Some firms reported that public sector work is less profitable than private sector jobs.

Interviewee #19, a Hispanic male-owned firm, stated that in Caltrans and public work, there are a lot less profit than in private work. One reason for this is the prevailing wage requirements, which according to Interviewee #19 sometimes increase in the middle of a contract. Caltrans will not allow a price increase to offset the wage increase, even if it can be proven. On a job in District 6, #19 Interviewees company has not been given any credit for the wage increases since 2004, even though they've shown Caltrans the certified payroll.

Some interviewees stated that projects are generally larger or more profitable in the public sector. Interviewee #35, a white female-owned firm, considers itself successful in the public sector and attributes its success in part to the fact that contracts are generally larger in the public sector. CATA #7, a Filipino trade association, believes contracts in the public sector are larger due to the nature of the work. Interviewees #14 and #41 (both white male-owned businesses) state that public sector work is larger. CATA #3, a Hispanic trade association, reported that government work can be more lucrative than private sector work, but the former requires a "lot more effort."

Interviewee #40, white male-owned firm, stated that due to the open bid system its ability to get public sector work depends if it can cut its price low enough. He reported that public sector work is more "cut and dry" than the private sector – especially with regard to payment.

Some interviewees reported payment issues in the public sector. Interviewee #44, a Middle Eastern male-owned firm, stated that his only complaint about working in the public sector is the turn over time for payments. It causes a cash flow problem for his business. Interviewee #85, a white male-owned firm, reports that sometimes the pay is slow when Caltrans is involved, but the good thing there is that you always know you will get paid in the end. Similarly, Interviewee #74, a white male-owned firm, prefers working in the public sector because the payment is "guaranteed," unlike the private sector where contractors or clients sometimes do not pay at all.

More anecdotes regarding payment in the public and private sectors and on Caltrans projects can be found in Section III.F.

Some interviewees reported difficulty obtaining work in the public sector due to the good ole' boy network. Interviewee #57, an Asian American male-owned firm, said that the primes only pick and choose from a few select DBEs and it is very difficult to convince primes to change their DBE partners. Interviewee #59, an African American male-owned firm, has faced lots of difficulty in the public sector obtaining work because of the company's size and due to the fact that there is an "old boy network" in place. He stated that prime contractors tend to want to use people that they are familiar with, and that makes it difficult for him. Interviewee #61, an Asian American male-owned firm, indicated that this is due to the fact that "there is a lot of competition out there" in the public

sector. "Most prime contractors do already have their own subs formed with them, as opposed to trying to start and trying to gather it."

CATA #5, a trade association representing subcontractors, stated that a lot of prime contractors have "select bid lists." The select bid lists are lists of subcontractors that the primes prefer to use. The primes use these select subcontractors because they know their work and they have "prequalified" them by checking their bonding capacity and financial stability. It is difficult for subcontractors to get on these select bid lists which occurs mostly through word of mouth.

A small consulting firm, (presumably a minority owned company), stated: "Most of the time it is not worth bidding A/E work as sub because the primes have their own staff [and] show you on the proposal but when they are awarded the job they don't respond to the subs. It's almost better to be a prime if you are a minority based company." (Written testimony submitted 3/16/07).

More anecdotes regarding the good ole' boy network as a barrier to receiving work in the public and private sectors can be found in Section III.I.2.

Good faith efforts:

Many DBEs report that prime contractors sometimes do not actually engage in genuine "good faith efforts" to utilize DBEs. As stated by CATA #4, an Asian American trade association, prime contractors are supposed to advertise opportunities and actively solicit DBE subcontractors and subconsultants through faxes, telephone calls, and emails. CATA #4 said that sometimes primes just "go through the motions" instead of genuinely trying to find DBEs. CATA #4 feels that this could be prevented, at least in part, if "Caltrans analysts" were more experienced in evaluating "good faith."

Interviewee #8, a Hispanic male-owned firm, stated that prime firms often falsify their good faith efforts to utilize DBE firms – "the people who are seeking out the DBEs generally could care less about a DBE." According to Interviewee #8, "the DBE program is a good program. But [he] I think[s] a lot of people bypass it just simply [by] doing their good faith effort and things of that nature and really don't take much interest in the DBEs themselves ... the good faith effort is what it's all about, instead of actually using a DBE."

According to Interviewee #8, "basically all they do is meet their good faith efforts and never have any intentions of using us." He estimated that his company winds up working on only about 25% of the Caltrans jobs for which it is contacted to submit a bid. For bids for which the company is solicited on work for other public entities, Interviewee #8 estimated that the percentage was even lower and stated that his company did not "get as many of" these jobs as they did the ones for Caltrans work. Further, noted Interviewee #8, the company is usually trying to meet a DVBE goal as opposed to a MBE or WBE goal, and that the amount of work that the company subcontracts out varies but typically is between anywhere from 5% to 25% of the total contract amount.

Interviewee #43, a Native American male-owned firm, stated "I think its probably the same as in all public sectors and that is I think there's more of an interest to fulfill some sort of notification quota or requirement. But there's much less incentive for companies to actually follow up and seriously consider bids from minority businesses. In other words, they're much more interested in just making an initial contact so that they can record in their records that they did that, rather than actually being interested in receiving bids from minority contractors."

Interviewee #67, a white female-owned firm, had not heard of prime contractors falsifying their good faith efforts to utilize DBEs, but she questioned the sincerity of many firms when undertaking these efforts and whether they in fact are made in good faith. Similarly, Interviewee #75, a white male-owned business, had no personal knowledge of primes falsifying their good faith efforts, but he sometimes hears about it happening.

According to CATA #1, an Asian American trade association, prime contractors do not "falsify" their good faith efforts to use DBE firms, but they undertake these efforts in a rather "strategic manner" and use good faith efforts as a loophole to get around using DBEs. For example, said CATA #1, prime contractors will sometimes put out a request for solicitations and give firms only twenty-four hours to respond. He mentioned another instance (on a water project in San Diego in winter 2006) where his firm submitted a bid to a prime but never heard back. He said that two or three months later his firm got an email from the agency saying that the prime could not certify his firm as a DBE.

A female-owned DBE testified at a public hearing in Oakland that "the solicitations we get, they really don't want a phone call back. They pass the paper by you, and if you call and inquire, they really don't want to be bothered with you anyway." (P.H. Oakland, 3/27/07).

A small African American owned construction company testified at a public hearing in San Diego and stated "I think that a lot of prime contractors are disingenuous when it comes to really being forthright and really soliciting participation from these companies ... you do have contractors that do make a good faith effort ... I know with Caltrans, San Diego, they have this annual event where they recognize contractors that have done an exceptional job, so there are those that do. But my feeling is that probably the vast majority of large prime contractors do not make a good faith effort." He noted that there are "a ton of resources" designed to help prime contractors locate qualified DBEs. He listed Caltrans website, "lots of associations, the Black Contractor Association, the National Multi-Cultural Association, women in construction associations." Prime contractors should utilize these sources as part of their good faith. "Why as a small business can I do it and a lot of the large primes contractors seem not to be able to?" (P.H. San Diego, 3/22/07).

A DBE consulting firm testified at a public hearing in San Diego, "we used to call good faith efforts 'good fake efforts' because all you have to do is program the numbers into the fax machine, hit, you know, fax blast." He recalls a project at the Oakland Airport where the prime had an "incentivized contract to include small and local businesses." The way the contract was structured if the prime did not use these businesses it was penalized, the more it used the more it earned. "They hired local consultants; they went out and talked to the people, because the last thing they wanted was to lose money." A representative from a minority trade association, who testified at a public hearing in Sacramento agreed – "I believe that there needs to be some specific compliance, or if you will, chief or incentive penalties or financial incentives to get them engaged in the process of working with small business contractors." (P.H. San Diego, 3/22/07).

A Hispanic female-owned consulting firm testified at a public hearing in Los Angeles that "lack of consistent and proper review of good faith efforts, pre and post-award" is a barrier. "While many agencies have instituted a proactive review of good faith efforts, some agencies only review the good faith effort requirements if there is a complaint filed." (P.H. Los Angeles, 4/4/07).

A small minority business enterprise doing building infrastructure, submitted written testimony that, "most of the calls we get are associated with the 'good faith' clauses that many of the public works

contracts contain. Everything from painting to landscaping to what ever just to meet the 'good faith' requirements. We get most of those calls because our company's name starts with an A and most list[s] are in alphabetical order." (Written testimony submitted 4/4/07).

A DBE and 8A company submitting written testimony stated they have received hundreds of phone calls regarding an invitation to bid over the past few years within one to two days of a bid deadline, which has made it impossible to bid. (Written testimony submitted 3/26/07).

A small (presumably DBE) business, submitting written testimony, stated she has a lot of general contractors calling her wanting bids, sometimes even blind bids, but she does not see any contracts out of it, even when she is "asking for numbers to be within their budget." "There was a general contractor that called and told me he needed a bid because he was just required to get one for the DBE program." (Written testimony submitted 3/26/07).

A wireless and wired systems provider (presumably a DBE) stated, "We receive many requests from prime contractors that require paving, striping, fencing, etc. I have never received any requests that pertain to [my industry of] communications." (Written testimony submitted 3/13/07).

A SBE and DVBE landscape contractor, submitted written testimony that "Recently, we received a voicemail at the office from a company with whom we have never had any previous contact or correspondence, saying 'This is XYZ Company calling, and this is our Good Faith call. We have recorded it.' Nothing more." The company did not reference the job, the bid date, or leave a call back number. "Most other DVBEs I discuss this with bemoan the lack of enforcement of the good faith system and 3% goals. Most refer to it as the, 'Good Faith Blow-Off' system." (Written testimony submitted 3/15/07).

A certified small business and DVBE, submitting written testimony, stated: business owners are treated unfairly based on their race, ethnicity or gender, "because unregulated bias within the system and the superficiality of the [Good Faith Efforts]." (Written testimony submitted 3/15/07).

A certified DBE, submitting written testimony, stated that when the race-conscious goals were in effect, "many prime consultants/contractors considered good-faith outreach requirements and DBE participation goals as a 'burden and a nuisance' and devised creative ways to circumvent those requirements." (Written testimony submitted 4/12/07).

A Native American DBE, submitting written testimony, stated good faith efforts forces contractors to "include diverse bidding, be accurate in their paperwork, and, occasionally, I know that an outside contractor who is not part of the local network will get an opportunity." (Written testimony submitted 3/20/07).

Some firms felt that prime contractors were not complying with good faith efforts because they were never contacted. Interviewee #2, an African American male-owned firm, felt that the very fact that he was never contacted by prime contractors suggested that good faith efforts were not effective in identifying DBE's for Caltrans work.

A woman-owned DBE, stated: "we are in the Blue Book [and the Fresno Builder's Exchange] and regularly receive bids opp[ortunities] for projects but we have *NEVER: received a bid opp[ortunity] from a prime for work on a Caltrans project." (Written testimony submitted 3/14/07).

A representative from the Small Business Commission stated, at a public hearing in San Jose, that "there's not really much teeth behind good faith efforts." His members are frustrated and feel, "[w]hy go through all the hoops, and at the end of the day I'm not getting any work." (P.H. San Jose, 4/4/07).

Some DBEs believed prime contractors were falsifying their good faith efforts because they were contacted for work outside their specialty or at the last minute. A minority female-owned business testified at a public hearing in San Bernardino that the company has been solicited from prime contractors "very little" since receiving certification. "I think the two letters that I've received from prime contractors looking for a disadvantaged business have been something that I don't do. It has nothing to do with me at all. They sent me a letter. So I can't understand ... why they would send me something for construction workers ... to me for a security guard?" (P. H. San Bernardino, 3/20/07).

Interviewee #21, a Hispanic male-owned firm, is not directly aware of any falsification of good faith efforts, but they can imagine it happens given their experiences of being called by companies that obviously did not have any interest in the company's work. A female-owned DBE firm testified at the Eureka public hearing that "whenever I'm called, I'm called usually the day before and it's from someone in LA. They know I don't have the bid packet. I can't bid it. So a lot of times it is just doing a good faith. So I'm not really given the opportunity to bid." (P.H. Eureka, 3/20/07)

One DBE stated that primes comply with good faith efforts. Interviewee #4, a Native American male-owned firm, stated that he did surveying work for Caltrans, and that he had good experiences with prime contractors making genuine good faith efforts to utilize DBEs. Interviewee #34, a white male-owned firm, stated that he was not aware of any prime contractors falsifying their good faith efforts and that going through the good faith efforts requirement is "a pretty standard way of doing business here locally", and "kind of an accepted part of the way things operate."

Some non-DBEs expressed frustration over good faith efforts because DBEs are difficult to find and the process is costly. Interviewee #56, a white male-owned firm, stated that he is not aware of false DBE reporting. He stated that contractors usually report "good faith efforts" in good faith but believes these efforts are unnecessary. Interviewee #76, a white male-owned firm, is not personally aware of people falsifying their DBE utilization, but he stated he was sure it does happen. According to Interviewee #76, some of the good faith effort requirements are almost impossible to comply with, so falsifying one's efforts is almost a necessity. CATA #2, an African American trade association, stated that most prime contractors now have staff and/or departments that handle their good faith efforts compliance.

Non-DBE general contractors say they struggle with whether to submit a lower bid with a good-faith effort or a higher bid that meets the goals. A large general contractor at the Eureka public hearing stated "when bid opening comes along ... they look at the low bidder first. And he is the one who says 'I have a good-faith effort, I've contacted these DBEs, and they cost too much, so I decided not to use them.' But if you go and look at the second low bidder, the second low bidder ... could have been the guy who said, 'Well, I know it was a little more to hire that DBE, but I did it anyway, and I'm risking not getting that low bid.'" (P.H. Eureka, 3/23/07). When Interviewee #18, a Native American male-owned business, is soliciting price quotes from other DBEs, he has a problem if he is trying to meet a goal because there may be little, if any, work to subcontractor out.

Some noted that DBE availability was an issue. CATA #6, a trade association representing heavy engineering contractors, stated that DBE availability is an issue with prime contractors. Often times there are simply no DBE firms available to perform the work in a particular geographic area or a particular industry niche. When the goals were in place, prime contractors spent huge amounts of money establishing "good faith efforts" even when everyone acknowledged the goal was impossible. Good faith efforts are not a requirement anymore so prime contractors do not do it. Contractors have to advertise in various industry publications, they have to make phone calls, send faxes, and have to show proof that they made these calls and faxes. It is very time intensive. There is a member in the association whose entire responsibility was to do these good faith efforts for the contractors. Otherwise, contractors have to have someone on staff and it is very expensive.

Interviewee #9, a white male-owned business, stated that it is "hard to give away that much work" on City contracts where the DBE goal is 25%, and that sometimes the company is not awarded a contract because they did not meet the DBE goal on a previous project. The interviewee stated also that when working for the City of Los Angeles, his division spends more time tracking the accounting and making sure that DBE goals are satisfied than it does actually doing the work. Interviewee #9 spoke specifically of a current contract where 20-30% of the cost is going to administration, and he called it "a waste."

Interviewee #14, a white male-owned business, stated that Company often has problems finding enough DBE's to meet program requirements on contracts. Often, they end up "having to play a lot of games" in order to satisfy the DBE requirements and create a team to get a project done. The Interviewees both felt that the DBE program was not necessarily the best way to build highways or the best value for tax-payer money.

Interviewee #26, a white male-owned business, stated that his company has never had any problems satisfying a DVBE goal on a project but that it was "hard" for them to meet the MBE and WBE goals on Caltrans projects, especially in more rural areas where there are fewer minorities. Specifically, Interviewee #26 noted that it is harder to meet DBE goals in Humboldt County and Del Norte County than it is in the Bay Area.

Interviewee #46, an Asian American male-owned business, stated that it sometimes is hard to meet DBE goals because it is difficult to find DBE firms in one's area that do certain specialty work. According to Interviewee #46, many firms are unable and/or unwilling to travel a long distance just to work as a subcontractor on a project because "[l]ogistically, it's a nightmare."

Interviewee #42, an African American male-owned business felt he was able to locate MBEs and DBEs through people in the business. He stated "there's not a whole lot of African American contractors [in Bakersfield] so we all know each other." He stated there are also a lot of Hispanic and white contractors.

Interviewee #40, a white male-owned business, noted that sometimes it's difficult for his company to meet DBE goals because they can only use contractors that are certified by the union; there are few DBE union contractors. Elimination of DBE requirements has made it much easier for Interviewee 40's company to enter into subcontracts. Interviewee #40 does not have any experience with DBE utilization in the private sector – "They don't follow the same rules that public sector does."

But, Interviewee #17, a white male-owned business, stated also that many DBE firms are "very limited" in how much they can help (because of their size), and that "it's also difficult to get the percentages of time that they need to satisfy the State requirements" – i.e., that "getting them [the DBE subcontractors] enough time" can be "difficult at times."

Interviewee #74, a white male-owned firm, uses minority subcontractors but states they are becoming "harder and harder to find." He uses the book of DBEs maintained by the State. He stated that the City of San Francisco's goal of 50% minority participation is "outrageous." He believes Caltrans 10% goals is more reasonable. He further stated that San Francisco is very stringent when it comes to replacing DBE subcontractors, but Caltrans is "more flexible."

Other firms felt it was not difficult to find DBE. Interviewee #61, an Asian American male-owned business noted it is easy to find DBEs and it is easy to meet the DBE goals. Interviewee #10, an African American male-owned business, stated that when he uses the Caltrans DBE list, that he has had no problems finding qualified DBEs or meeting DBE goals, and that his experiences utilizing and working with DBEs had been favorable. Interviewee #49, an African American male-owned business, said that he never had any problems finding DBEs or meeting project DBE goals.

Interviewee #51, a Hispanic male-owned business, said that he never encountered a DBE goal in the private sector; that, even though it was hard to find DBE firms to perform certain specialty work (he gave the example of electric welding and said that if there are DBE firms that do this work, they are probably so busy that you cannot get them to work on your contract), the company never had any problems meeting DBE goals; and that the company usually tries to subcontract out upwards of 40% of the work on a job. He also said that the easiest way to deal with the percentage issue is to lay out in the specifications a certain percentage of the work that must be subcontracted out.

Interviewee #59, and African American male-owned business, is able to meet DBE goals, and stated that it is easy to find DBEs.

Some felt Caltrans needed to do a better job enforcing good faith efforts. According to CATA #2, an Asian American trade association, Caltrans' "biggest problem" is that it accepts too much good faith, which, he said, is the basis upon which upwards of 85% of Caltrans contracts are awarded. He said that no one polices prime contractors' good faith efforts and that Caltrans needs to be more proactive in challenging their good faith efforts. CATA #2 stated that the Association had addressed this issue with Caltrans "all the time" and that Caltrans' response was that it was doing all it could but lacked adequate resources. He also stated that nowadays, since the Caltrans DBE program has been suspended, prime contractors do not even use good faith efforts but instead just award contracts based on the lowest bid. He said that before primes at least gave the appearance of trying, and that "if [the DBE program] wasn't working under [a] race-conscious system, you know it's not working under [a] race-neutral [one]."

CATA #12, an African American trade association, said that he had an "array of stories" from members about their not being able to get work from Caltrans, including when they were put on the bid list but did not wind up getting any work. He said that there needs to be in place a monitoring process for Caltrans contracts to make sure that businesses listed on the bid are actually getting the work (and that Caltrans needs to penalize prime contractors who are not using those listed on their bid).

One interviewee believes Caltrans does an adequate job checking for good faith. Interviewee #27, an African American male-owned firm, stated "usually when we get those types of people they're like from L.A. [Los Angeles] or Bakersfield or out of our region. And they just call to get the good faith. People around here . . . contractors we work with . . . they don't do that." Interviewee #27 stated that it was a common experience for Caltrans to call and ask if prime contractors had actually contacted them. Interviewee #40, a white male-owned firm, stated he does not have a lot of experience with contractors falsifying "good faith efforts," especially since you have to show records and confirmation proof.

Some DBEs stated that there is "no way of knowing" whether a prime contractor is falsifying his or her good faith effort on a particular project. Interviewee #31, an African American female-owned firm, stated that when you do not get on a project team, there is no reason to pursue the matter further because no one is going to help you. According to Interviewee #31, it would be a waste of resources to do investigative work as to good faith efforts. Interviewee #49, an African American male-owned firm, stated that there is "really no way of knowing" whether prime contractors falsify their good faith efforts to utilize DBEs. Interviewee #51, a Hispanic male-owned firm, had no evidence but believes it happens on Caltrans projects and others. CATA #2, an African American trade association, said he had no proof that prime contractors were falsifying their good faith efforts to utilize DBEs, but that Caltrans was not verifying whether or not primes make these efforts and should do a better job of doing so.

Two interviewees knew of challenges to good faith efforts. Interviewee #57, an Asian American male-owned firm, knows of at least one prime contractor who lost a Caltrans project because of falsifying good faith efforts. Interviewee #26, a white male-owned firm, recalls that he once unsuccessfully protested the awarding of a contract by the City of Redding based on his competitor's failure to comply with the good faith effort and advertising requirements. Otherwise he "really [did]n't know" about prime contractors falsifying their good faith efforts to utilize DBEs.

Some DBE interviewees stated that DBEs are sometimes listed on the bid and then their work is cut or they are never used. CATA #3, a Hispanic trade association, stated that he did not know about any prime contractors falsifying their good faith efforts to utilize DBEs, but that sometimes contractors put DBE firms on a bid list just to play a minor role and thereby try to "minimize [the DBEs'] work," and that he had heard about situations (he mentioned one particular one out of state) where prime contractors just give subcontractors a check without actually doing any work. CATA #7, a Filipino trade association, believes this is prevalent. He has also seen situations where the prime wins the project and never calls the DBE whose quote he used in the bid. Interviewee #29, an African American male-owned firm, believes companies do not care whether the DBEs are real or not, just that they have satisfied the requirements. As for falsifications, Interviewee #29 stated that he has heard of a contractor taking the certifications obtained from his good faith efforts from a prior job and inserting them into future jobs without the knowledge of the DBE.

A small DBE information technology consulting firm who testified at the Los Angeles public hearing stated: "In our experience, what has happened is that we will be invited to formally bid on a project with a prime, and then once the prime has won the work . . . they then will call us and cut back on our hours, saying that they have budget constraints and therefore are not able to keep . . . what was initially proposed." She recalled an example: "I was on the District 59 contract that just ended. It was three years on call, and that team was successful. I was a subconsultant on that team. I never placed a single person, never got a dollar out of that contract." (P.H. Los Angeles, 3/29/07).

A female-owned DBE blueprinting company testifying at Los Angeles public hearing stated that "there are some situations where we were invited because of our WBE and SBE status. The really sad news is some of those – in a lot of cases, we haven't actually seen the work. They use your name and then you don't get the work. So it would be nice if there was some enforcement ... some kind of monitoring system down the line a year later." This has happened to her five (5) times in the last year. (P.H. Los Angeles, 3/29/07).

Experience with DBEs in the public and private sector.

Solicitation of bids/price quotes from DBEs:

Several of the interviewees indicated they had frequent experience with soliciting bids and price quotes from DBEs in both the public and private sectors. Interviewee #10, an African American male-owned business, stated that prime contractors contact him requesting bid submissions on Caltrans projects "usually every time a bid comes out[.]" and that the company receives work from about one third of the bids that it submits. According to Interviewee #10, the same 33% figure applies to the company's receiving non-Caltrans public sector jobs for which it bids as a subcontractor contractor and for which prime contractors are looking to meet a DBE goal.

Interviewee #17, a white male-owned business, stated that his experiences soliciting bids from DBEs on Caltrans projects have been positive. As for the private sector, he stated that his firm's experiences with soliciting bids from DBEs was "fine." Interviewee #26, a white male-owned business, characterized his experiences soliciting bids from and utilizing DBEs on private sector jobs as being "[i]n general . . . pretty good."

According to Interviewee #27, an African American male-owned business, the company receives solicitations from prime contractors asking for bids on Caltrans work "almost weekly" and/or whenever Caltrans publishes its jobs. Interviewee #54, a Hispanic male-owned business, said that he "very often" is contacted by primes for concrete work in the private sector (for road improvement, parking lot improvement, slab, and formation work), and that he winds up getting about 70% of the jobs that he bids.

Interviewee #51, a Hispanic male-owned business, said that the company gets contacted much more frequently by prime contractors to work on other public sector jobs than it does for Caltrans jobs, and that the company had bid on four or five Caltrans jobs in the last three years but had not received any of them because it was not the low bidder. Interviewee #51 also stated that whether or not his or any other firm is chosen depends on whether they submit the low bid, noting that primes "want to be the low bidder in the process so they can get the job, and they are sure not going to use you if you are double their estimate or 20% or 10% or 1% higher, in some cases, than the non-DBE guys."

Interviewee #33, a Hispanic female-owned business, stated that the firm's receiving requests to bid as a subcontractor on Caltrans projects "goes in cycles" and that "right now it's happening more often[.]" as they had received three requests in the last two months. She stated that the requests have "been pretty constant [over] the past year."

Interviewee #9, a white male-owned business, noted that his division has experience soliciting bids from and utilizing DBEs on projects for other public agencies, including the City of Los Angeles. Interviewee #26, a white male-owned business, also relayed experiences with soliciting bids from and

utilizing DBEs on projects for the County of Sacramento, which he said were the only non-Caltrans public sector projects that he had worked on in the past seven years.

Interviewee #61, an Asian American male-owned business, stated that company has not had any difficulties with prime contractors requesting submissions of bids on non-Caltrans public work. Interviewee #67, a white female-owned business, noted that she had recently received a letter from a prime contractor saying that her company had been selected as part of a team for an upcoming Metropolitan Water District wastewater project for which bids are still out, and that this is the first time the company had ever heard back from a prime contractor to which it submitted a subcontracting bid.

Interviewee #13, a Pakistani male-owned business, indicated that his firm is contacted about as frequently by primes requesting price quotes on non-Caltrans public sector projects as it is contacted for quotes on Caltrans projects. However, Interviewee #13 stated that he has "more success" in getting work from these agencies, which are mainly water districts and cities, and that his experiences seeking and getting work from these agencies were more positive than those he had with Caltrans. Interviewee #13 also stated that "that work [for agencies other than Caltrans] is based on [the] qualifications and reputation of my company. It has nothing to do with me being DBE certified."

According to Interviewee #49, an African American male-owned business, it has been "a couple of years" since the company last bid as a subcontractor on a public sector job, but the company used to get contacted "frequently" by prime contractors to bid on Caltrans and other public sector jobs. Interviewee #33, a Hispanic female-owned business, felt that bidding as a subcontractor on non-Caltrans public sector work is "[g]enerally . . . an easier process[.]" depending on the city and/or agency, and she stated that the company receives a higher percentage of these jobs than it does the Caltrans ones.

Some of the interviewees expressed general experience soliciting bids and price quotes from DBEs. When asked about experiences with soliciting bids or price quotes from DBEs for private sector and non-Caltrans public sector work, Interviewee #31, an African American female-owned business, answered, "It's fine" and "No problems." Interviewee #31 stated that he and others at his company "are the ones that pursue getting all projects" and that prime contractors "do not normally come to [them]" Interviewee #31 attributed this lack of solicitations from prime contractors to Caltrans' lack of enforcement of DBE goals and/or requirements.

According to Interviewee #31, when the company does get solicitations from prime contractors for work – whether it be for Caltrans, other agencies, or in the private sector – the "majority of the time [it is because] either the teams figure that they have to have WMBEs on their team . . . or they know about us and know that we are that good." Interviewee #31 also stated that the company experienced a decrease in solicitations to work on public sector projects after the passage of Proposition 209 in 1996. Interviewee #31 noted that the company saw this decline "in most city and county governments [and] public transportation agencies."

Interviewee #48, an Asian American male-owned firm, stated also that the frequency with which his company is contacted by prime contractors to bid on non-Caltrans public sector projects varies, and that, when it bids on these projects, the company winds up getting more than half of the jobs. Interviewee #32, an Asian American female-owned business, recounted a similar experience, and

noted that, in general, her experiences soliciting bids from and utilizing DBEs for private sector and non-Caltrans public sector work were positive ones.

However, Interviewee #46, an Asian American male-owned business, thought that "a lot of times" it was "ambiguous" exactly what was required of firms in terms of "put[ting] the DBE requirements together for a bid ... and the paperwork [for doing so]." He relayed one experience where his company lost a job because they were told that their "DBE wasn't correct."

Interviewee #49, an African American male-owned business, noted that his experiences soliciting bids from and utilizing DBEs on Caltrans projects and other public sector jobs had been the "just the same" as his experiences soliciting bids from and utilizing non-DBE firms. Interviewee #54, a Hispanic male-owned business, indicated the same; he uses subcontractors, some of whom are DBE firms, in the private sector and on non-Caltrans public sector work, and that his experiences with DBEs were no different than non-DBE firms.

Interviewee #58, a white female-owned business, stated that the company generally goes to firms that other people have recommended and have had success. With a couple of exceptions, every firm they have asked for a quote from has delivered. Sometimes companies are too busy, and they have a reduced capacity to respond. Interviewee #42, an African American male-owned business, stated that he has submitted bids and never hears back from the prime contractor. He stated that he has tried to obtain feedback and has heard from the contractor that the bid is not finished yet. Interviewee #42 felt that if you do not get the bid its because "you're price is too high . . . that would be the main thing."

Some of the interviewees specifically recounted their experiences with solicitations pertaining only to Caltrans work. Interviewee #61, an Asian American male-owned business, stated that soliciting bids/price quotes from DBEs on Caltrans projects is fairly easy. Interviewee #35, a white female-owned business, reported that primes request they submit a bid on a Caltrans project roughly two to three times per year. They usually receive these jobs. They receive requests for bids on public sector non-Caltrans projects more often than for Caltrans projects. Interviewee #18, a Native American male-owned business, reported his experience with a prime contractor requesting submission of a bid or price quote on a Caltrans project has been sometimes good and other times difficult. For example, he said the prime contractor might have their own concrete crews and they are just doing their good faith effort.

When Interviewee #18, a Native American male-owned firm, is soliciting price quotes from other DBEs, he has a problem if he is trying to meet a goal because there may be little, if any, work to subcontract out. Interviewee #33, a Hispanic female-owned business, noted the same problem, indicating that of the Caltrans jobs the company bids as subcontractor, it winds up working on less than half of them, but she noted that some of this is because "they [the primes] don't have the work either."

Interviewee #46, an Asian American male-owned business, relayed experiences where his firm had been solicited to bid on projects that were outside of its geographical area and indicated that this was most often the case with respect to Caltrans work. Interviewee #48, an Asian American male-owned firm, noted only one experience with a prime contractor requesting his company to bid on a Caltrans project.

Interviewee #56, a white male-owned business, has experience soliciting bids and price quotes from DBEs in his work with Caltrans. Specifically, he “might affiliate [him]self with another traffic control company that’s going to do another portion of the – a bigger portion of the work and have them just – [he]’d subcontract to them and run under their DBE so . . . there’s more participation involved.”

Interviewee #57, an Asian American male-owned business, notes that sometimes he receives faxes from primes before bids open that are very far from the company’s business and/or its requirements. The faxes that are received by primes for submissions on Caltrans projects have not been for projects where he could actually be used. He thinks that these are merely so that primes can show they made a “good faith effort,” but not because they are actually interested in using his company. Interviewee #57 notes this happened frequently in 2004 and 2005, but then he requested to be removed from these facsimile listings.

Interviewee #59, an African American male-owned business, also received similar solicitations, and stated that although primes used to request submissions of bids and price quotes on Caltrans projects often, Interviewee #59 does not receive many of these requests anymore, except from contractors with which the company has worked in the past. Interviewee #59 has never been a prime on a Caltrans project, so he’s generally functioning as a subcontractor due to the size of the projects. Interviewee #43, a Native American male-owned business, has had no experiences with a prime contractor requesting submission of a bid or price quote on a Caltrans project.

Interviewee #32, an Asian American female-owned business, indicated negative experience. She stated that the company gets called “maybe two or three times a year” to bid as a subcontractor on Caltrans work, but she described these experiences in the following manner: “They ask you to submit your qualifications and we do and then that’s the end of that.” Interviewee #32 said that they never know if a prime selected them, if the prime submitted their bid, or if the prime got the contract because “they don’t get back to you to close the loop.”

Interviewee #7, a white female-owned business, stated that the company does not solicit price quotes from subcontractors on Caltrans projects, but instead “just look[s] at their qualifications.” Similarly, Interviewee #57, a Native American male-owned business, has very minimal experience soliciting bids or price quotes with regard to Caltrans projects, and he said that he does not pursue those opportunities anymore because he was not successful.

CATA #3, a Hispanic trade association, stated prime contractors do not request price quotes from the Association’s members for private sector work. Primes requesting price quotes from his members for Caltrans work was something that he “ha[d]n’t seen that much” and that he did not see any change in this regard in the past year because, as he put it, work with Caltrans it was “nil before, and it’s nil now.”

CATA #9, an association of consulting, engineering, and land surveying firms, told the interviewer that most of his members do work in a subcontractor capacity on Caltrans work. He stated his members would not have experience utilizing a DBE on a Caltrans project. He stated that in the private sector, his members do not look specifically to use a DBE but rather look for a subcontractor based on cost.

Some of the interviewees specifically noted solicitation experiences specifically with regard to private sector work. Some interviewees indicated positive experiences with solicitation for private sector work. CATA #11, a minority trade association, noted that his association gets eight to ten faxes and e-mails a day from private sector firms asking them for quotes from their members. Primes "are always looking for subcontractors." His members have received these jobs. His association gets faxes from primes on City or County projects in connection with good faith efforts. His members have received these jobs.

Interviewee #10, an African American male-owned business, stated that primes request bids on private sector work (sometimes because they are trying to meet a DBE goal). He points out, however, although his company lands about a one third of the work for which it bid as a subcontractor in the private sector, he is contacted less frequently by primes requesting bids for private sector work.

Interviewee #59, an African American male-owned business, stated that the solicitation of bids and price quotes from DBEs in the private sector has been positive. Interviewee #35, a female-owned business, stated that her company receives requests for bids on private sector projects about once a week. Interviewee #61, an Asian American male-owned business, reports experiences with prime contractors requesting submissions of bids/price quotes for private sector projects in the \$1,000.00 to \$6,000.00 range.

Interviewee #27, an African American male-owned business, stated that his company receives solicitations to bid on private sector work less often than it does to bid on public sector work. The white female-owner of Interviewee #27 attributed this difference to be at least in part due the company's being union and a lot of private contractors looking to use non-union workers. Interviewee #48, an Asian American male-owned firm, stated that his company "sometimes" received requests from prime contractors to bid on private sector projects, that these projects were less than 10% of the company's overall work, that there were no DBE goals for these projects, and that the company winds up getting over half of these jobs. Interviewee #46, an Asian American male-owned business, felt that his company's success in landing Caltrans and other public sector work "runs in streaks," as sometimes months pass without getting a job, whereas other times "you'll get a couple in a row."

Interviewee #13, a Pakistani male-owned business, felt that the only reason he was solicited for work in the private sector was because of his qualifications. Interviewee #13 stated that he also gets contacted by primes requesting bids on private sector work with the same frequency as it receives requests for bids on public sector work. He indicated that firms doing work in the private sector "could care less" whether or not they are soliciting a bid from or utilizing a DBE firm on a project.

Interviewee #32, an Asian American female-owned firm, stated that she does not get solicited to bid as a subcontractor on private sector work. Interviewee #43, a Native American male-owned business, has had experiences with prime contractors requesting submission of a bid or price quote on private sector contracts.

Interviewee #29, a Hispanic male-owned business, stated that his company's private work comes from relationships and reputation built over the many years that the company has been in business. Interviewee #29 stated that its company's DBE status had a lot to do with obtaining subcontractor work in the public sector but not at all in the private sector.

Some of the interviewees indicated they had very limited or no experience soliciting bids and price quotes from DBEs (Interviewee #1, #7, #19, #32, #48, #52, #54, #57, #60, #65, and #68). Interviewee #1, a Native American male-owned business, stated that he does not have experience soliciting bids or price quotes from DBEs on Caltrans projects. Interviewee #19, a Hispanic male-owned business, noted that because the company provides professional services, it is not typically engaged in the bidding process, and so has not had much experience with primes asking for bid submissions or price quotes on Caltrans projects. Interviewee #52 and Interviewee #65 (both white male-owned) and Interviewee #48, an Asian American male-owned business, also have no experience soliciting bids from or utilizing a DBE on Caltrans projects.

Interviewee #68, a white male-owned business, said that he did not really have any experience with soliciting bids from and/or utilizing DBE firms on Caltrans projects and that he "d[id]n't care" whether the firms he used as subcontractors were DBEs or not. Because, he said, no agency ever required that he use a DBE subcontractor.

Interviewee #48, an Asian American male-owned business, had no experience soliciting bids or price quotes from or utilizing DBEs on private sector projects or non-Caltrans public sector projects either. Interviewee #54, a Hispanic male-owned business noted that he had never been contacted to work as a subcontractor on any public sector job. Interviewee #65 also has no experience soliciting bids or price quotes on private sector projects. Interviewee #82, a white male-owned business, noted that he did not actively solicit DBEs because as soon as he was awarded a contract he already knew who he was going to use.

Some of the interviewees indicated frustration with the DBE solicitation process. Interviewee #5 a white female-owned business, spends between \$500.00 to \$1,000.00 soliciting for each project without usually securing any DBEs. Interviewee #5 stated further he felt that his company generally spent a lot of time soliciting, but that it received few responses. According to Interviewee #5, fewer than 10% of the businesses on the Caltrans list were responsive.

Interviewee #26, a white male-owned business, felt frustrated about the solicitation process, noting the amount of time involved in qualifying a bid, namely due to the requirement of showing good faith efforts to solicit bids from and utilize DBE firms—"too time consuming for a small contractor."

Interviewee #13, a Pakistani male-owned business, said that he responds to requests to bid on Caltrans projects, but that his firm gets "two typical responses": the prime either does not respond at all, or the prime responds saying that the team has already been formed but thanking his firm for expressing interest. Interviewee #13 described this process as "frustrating" and wondered why his firm spent so much money and resources to get DBE certification without receiving any benefit. Interviewee #13 stated that he instead could have utilized his staff "for making some money for the company. . . . If that effort would have been made somewhere else I would have got more jobs, more projects, more money."

Interviewee #58, a white female-owned business, recently submitted a proposal for Caltrans work that was for different environmental consulting services. Previously, the firm could submit for many different projects, but since the contracting structure has changed, it is become more difficult to obtain work.

Interviewee #30, an Asian American male-owned firm, explained that the same DBEs get all the work and there is a disparity between the “haves and have nots.” He observed that probably 20% of the DBEs “gobble up” 80% of the work because of their standing relationships. The remaining 80% of the DBEs are fighting for 20% of the work.

Experience utilizing DBEs.

Caltrans

Some interviewees reported general and/or positive experiences with DBEs on Caltrans projects.

Interviewee #9, a white male-owned business, stated that the company subcontracts out landscaping, geotechnical, and public relations work to DBE firms on Caltrans projects. He stated that there are a “couple of DBE landscape firms that are very very good” which the company continues to use, but he felt that these companies were “too big” and “too strong” to still be qualified as start-up firms. The interviewee further relayed also that he was “very pleased” with the geotechnical and landscaping DBE firms the company had used, but he felt that they were “hardly disadvantaged businesses,” and that these firms commanded higher fees than they otherwise would be able to charge (i.e., the company could get a non-DBE firm to do the same work at a lower cost).

Interviewee #7, a white female-owned business, noted that the company does look for and utilize DBEs on Caltrans projects. Interviewee #7 characterized the experiences working with DBEs as positive ones, and said that they do not have any trouble locating these firms. Interviewee #7 stated these DBE firms are small businesses and that she likes to work with smaller companies because they are more responsive.

Interviewee #34, a white male-owned business, stated that the company had no problems in soliciting bids from and/or finding DBEs and that they “certainly don't have trouble finding the DBE firms that [they] regularly interact with.” He stated also that the company “would certainly be open to becoming acquainted with and potentially using additional DBE firms if . . . [they] knew where to find them.”

Interviewee #56, a white male-owned business, noted that he utilizes or works with DBEs on Caltrans projects four or five times in a year. Interviewee #56 stated that it is easy to engage with DBEs because “they’re just well known through the business – it’s easy.” Generally, Interviewee #61, an Asian American male-owned business, stated that the company’s projects for Caltrans range from \$50,000 to \$100,000, and it works as a civil engineer and construction manager – the experience has been generally positive.

Interviewee #81, a Hispanic male-owned business, does try to make a special point of hiring DBEs, but he is also looking for quality of work. His experiences working with DBEs has been very positive.

Some interviewees reported less positive experiences with DBEs on Caltrans projects.

Interviewee #5, a white female-owned business, relayed a 2005 incident where a DBE with whom the company subcontracted had trouble performing on time. This scenario was problematic because Caltrans does not give prime contractors extra time on their contracts in order to help in these situations, and to enable prime contractors to help DBEs in these situations. She also stated that when the company was DBE-certified with Caltrans, it had trouble getting work from prime contractors because the company is a non-union enterprise.

Interviewee #9, a white male-owned business, identified one bad experience using a WBE subcontractor on a project several years ago. He stated that he was "very disappointed" in the quality of work provided, and that his company had to do the work over, yet still paid the WBE subcontractor for her work. Interviewee #9 said that his company had bad experiences with one or two DBE firms. Interviewee #9 also noted that his company no longer uses or does business with (or solicits bids from) these subcontractors because of these negative experiences, but that otherwise his company had never refused to work with a DBE.

The only problematic issue identified by Interviewee #34, a white male-owned business, with respect to his experiences with DBEs was that the company had to forecast up front the DBE participation on its projects, but sometimes had to make mid-stream corrections in terms of how subcontracts are directed. As a result, the firm had to "consciously monitor and at times make decisions about how the work gets allocated" in order to meet DBE goals throughout the course of a project, and to be able to show this on their intervals report that they have to prepare for Caltrans.

Interviewee #40, a white male-owned business, has used DBEs on Caltrans projects – some that were good, some that were bad. Interviewee #7, a white female-owned business, mentioned an experience where a prime contractor is awarded a job on a Caltrans contract for which it has more than one DBE on the team, but then only uses one of the DBE firms to do the work because that is all that is needed to satisfy the DBE goal. She gave the example of a consulting firm subcontracting out to a public relations firm the percentage of the overall work necessary to satisfy the DBE goal, but keeping the engineering and traffic work in-house (instead of subcontracting it out). She stated that they have had "numerous contracts with other primes that operate the same way." Interviewee #7 also noted experiences where prime contractors for whom they worked on Caltrans projects tried to "steal" their employees by hiring them directly.

A woman business owner, stated, "I think that serving as a subcontractor is no way in which to grow a firm. The primes take the vast majority of the budget and give a pittance to the subs." (Written testimony submitted 4/15/07).

A non-DBE, submitting written testimony stated: "We are very happy to see that the former mandatory sub-contracting requirements are gone, as we found that 'registered' minority and women-owned companies available were always radically more expensive and generally offered lower quality than the companies we routinely use. . . . Given our experience with 'registered' DBE companies offering higher prices and lower quality, we avoid them. However, we certainly do use some which are not 'registered' as DBEs, even though the owners happen to be women or members of the specific races/ethnicities commonly listed as DBEs." (Written testimony submitted 3/16/07).

Non-Caltrans, Public Sector

Some interviewees recounted general and/or positive experiences with DBEs on non-Caltrans, public sector projects. Interviewee #5, a white female-owned business, noted that the company had better success using DBEs in its work for other public agencies, namely the California Public Utilities Commission ("CPUC"), and that the company helped eligible businesses to get certified by the CPUC and be "productive." Interviewee #17, a white male-owned business, also said that his experiences with utilizing a DBE on public sector projects had been "very positive," that his company has "good relationships" with the firms it uses, and that his firm "like[s] working with them."

Interviewee #32, an Asian American female-owned business, said the company had more success getting subcontractor work on non-Caltrans public sector jobs, but she did not know if these other agencies have DBE goals or not. She said that she got a contract with a municipality because she was a woman-owned small business, and that she had received several contracts for the Navy, who she said "has been successful in . . . awarding contracts to small businesses."

Interviewee #33, a Hispanic female-owned business, noted the company has used DBE subcontractors on public sector jobs for other agencies, and said that she has "had good success with all of them." She also stated that she "would not pick somebody just because they're MBE or WBE and not knowing that they're good at what they do."

Interviewee #11, a Native American male-owned business, has not had any experience using the same DBEs outside of the public sector, but the company has used the same DBEs outside of Caltrans, i.e., in other public projects. Interviewee #35, a white female-owned business, describes its experience working with DBEs as "fine."

Interviewee #3, an Asian American male-owned business, has been approached by large companies to work as a subcontractor, but for public sector work only.

In the non-Caltrans public project context, Interviewee #18, Native American male-owned business, observes that usually contractors will use companies that they have worked with for years who are already DBEs so the relationship is built up and hard to break into. Interviewee #18 has its own relationships with primes that will generally use him on their projects as long as the numbers quoted allow the prime a chance to be the low bid on the project. Interviewee #35, a white female-owned business, noted that it uses some female DBE subcontractors and one ethnic minority subcontractor who is not certified as a DBE in the public and private sector. Interviewee #35 has not specifically tried to use DBE subcontractors, rather some of the subcontractors they use just happen to be DBEs. They find their subcontractors "mostly through connections, who we know, based on word of mouth." Interviewee #35 has also used DBEs on a LADWP project with a DBE goal. The other projects did not have goals.

Interviewee #59, an African American male-owned business noted that the prime work that his company performs is in the public sector, and because he is a DBE himself, he is not actively looking for DBEs as subcontractors.

Private Sector

Some interviewees had experience with DBEs on private sector projects. With regard to using DBE subcontractors in the private sector, Interviewee #9, a white male-owned business, stated that the company does use DBE firms, but that these firms are selected because he feels that they are "the best for the job." Because the company's reputation is on the line, he does not want to be "required to use a set aside firm that [he] may or may not want to be using." Interviewee #17, a white male-owned business, stated also that he had good experiences utilizing DBEs in the private sector, and that using them in the private sector was "probably a little less restrictive" (because there are no percentage requirements or DBE goals).

Interviewee #34, a white male-owned business, could not recall an instance where he did not use a DBE in the private sector, and that the DBEs that he uses regularly would in any case be among the first choices for the work they do for him. He did say, however, that with respect to soliciting bids

from and utilizing DBEs in the private sector, "[i]t's just a different consideration" because "there's just not quite the same imperative when you're doing private sector work." Interviewee #20, an Armenian male-owned business, stated that in the private sector, DBE status is not an issue.

Interviewee #46, an Asian American male-owned business, said that private sector contracts "hardly ever ask you for a DBE requirement." Interviewee #65, a white male-owned business, has utilized or worked with a DBE in the private sector. According to Interviewee #11, Native American male-owned business, the company does not use DBEs when it is a prime in private contracts – the company pretty much handles everything in house.

CATA #1, an Asian American trade association, said that he had had good experiences soliciting bids from and working with other DBEs on Caltrans and other jobs. He said that, because of good networking, he had no problem finding DBEs, and he mentioned a current contract with a public agency (the Metropolitan Water District) where his firm is listed as the prime and three others as subcontractors. According to CATA #1, a "very very low percentage" of jobs that are bid are landed, and that getting private sector jobs depends heavily on whether a DBE program is looked upon as merely lip service or a real commitment. He identified one utility company that was good about hiring DBEs, but he said that most other utilities and defense contractors were not.

A certified female DBE firm, stated primes "will tell me outright they use DBEs when they are required to use them by the agency they are trying to win work from. After they win the work, they try to find a way to get rid of us or not give us any role." (Written testimony submitted 3/8/07).

Non-Specific Industry Sector Comments

Some interviewees offered experiences with DBEs but did not specify whether the experience was in the public or private sector. Interviewee #8, a white male-owned business, indicated that his experiences using DBE subcontractors were no different (i.e., neither more negative nor more positive) than those using non-DBE firms and that "[i]t depends on the company" "[j]ust like anybody else" because there are good firms and there are bad firms. He also stated that when the company bids as a prime, which is usually on projects from between \$200,000.00 to \$2,000,000.00 they look for and use DBE subcontractors for striping work even though the DBE goal on these projects is generally satisfied by his company working on the job. Interviewee #20, an Armenian male-owned business, also noted that his experience with DBEs has not been any different than with non-DBEs.

Interviewee #4, a Native American male-owned business, noted that his company looks more to local subcontractors who have knowledge of local conditions and terrain on its jobs, but that the company does try to involve tribal members of the tribes on whose reservation the work is done as much as possible. Interviewee #4 also notes that the company usually does not engage in subcontracting relationships itself, but instead gives tribal governments a lists of contractors who it thinks would excel on any given job.

Interviewee #15, a white male-owned business, felt that there was no difference in average quality between DBE and non-DBE firms. His feeling was that the DBEs with whom he regularly worked were very well informed as to the requirements of the various RFPs and were often a real help in complying with them. He also mentioned that for particularly good firms, there was often some competition between the prime contractors responding to an RFP to get them. He stated that there are some DBEs with which he chose not to work, but put this into the broader context of variation in

quality of all subcontractor-contractors. That is, Interviewee #15 works with companies who provide excellent work product and chooses not to work with those that do not. DBEs as a whole provide the same level of work product as non-DBEs.

Interviewee #26, a white male-owned business, conveyed his feeling that DBEs often charge more or, in his words, "tack on money" because "minorities are much busier than your average, and I'm not racist, but I'll say white guy, because we [white men] don't have any preference." Interviewee #26 felt that at least one DBE firm that he had used as a subcontractor for traffic control work did not provide work of "as good a quality because they just had that kind of attitude that they didn't have to . . . that they could get all the work they needed."

Further, Interviewee #26 has had previous relationships with both minority- and women-owned businesses. Some of these relationships, according to Interviewee #26, have been very successful, but other of these firms he would "never have on [his] job again." He noted that a general or prime contractor is responsible for the quality and timeliness of subcontractor work, and that it is "tough" to have to pay liquidated damages on a contract because "you've got a subcontractor that's not doing what he says"

When asked about his experience working with DBEs, Interviewee #34, a white male-owned business, stated, "I wouldn't distinguish my experience with the DBEs from any other subcontractor-consultants that I've ever used." He said that this was true of his experience using DBEs on work for Caltrans, other public sector work, and private sector work.

Interviewee #47, a white male-owned business, stated that the company has had mostly good experiences with DBE firms. They have experienced poor performance and firms going over budget; when this happens, they do not use these firms again. Interviewee #50, a white male-owned business, stated that he has worked with one WBE, and his experience has been good. Interviewee #51, a Hispanic male-owned business, indicated that the company's experiences using DBE subcontractors on projects (be they in the public or private sector) were no different than those with non-DBE subcontractors.

Interviewee #52, a white male-owned business, said that his experiences using DBEs on non-Caltrans public sector work and private sector work were the same as his experiences using any subcontractor.

Interviewee #61, an Asian American male-owned business, also stated that using DBEs on Caltrans projects was easy and successful. Interviewee #61 noted the same was said of using DBEs on private sector projects – it was an easy and a positive experience. Interviewee #67, a white female-owned business, does not subcontract out any work. Interviewee #67 said that, though she was not sure how often prime contractors are looking for a firm like hers to do conversions to CAD, prime contractors still keep a lot of work in house, that subcontracting work is all about positioning as a small business and how primes look at small businesses, and that it is important for her, as a small business owner, to see that the DBE program is not abolished.

Interviewee #69, a white male-owned business, never personally hired a DBE. But, Interviewee #69 has had experience with DBEs in that he has had to "clean up" a lot of their work. He said some of the DBEs have had to send two people for projects for which he would only send one. Interviewee #69 also worked with prime DBEs, but the problems tend to be with subcontractor DBEs.

Interviewee #76, a white male-owned business, stated that he utilizes the same subcontractors each time. Some of those subcontractors are DBEs, and while he might have initially used them because he was trying to meet some DBE requirement, he continues to use them because they do good work. Interviewee #76 works “within the family,” meaning he only uses those companies with which he has a good working relationship and knows will get the job done – regardless of whether they are certified.

Interviewee #7, a white female-owned business, stated that their experiences using DBEs in the private sector and on non-Caltrans public sector work were the same as those using DBEs on Caltrans projects. Interviewee #7 stated also that they have no problems finding DBEs for private sector and non-Caltrans public sector work, since they use the Caltrans list to locate DBE firms no matter who is issuing the contract.

Interviewee #18, a Native-American male-owned business, explains that it is difficult even as a DBE to find other DBEs to work with it because a lot of them do the same type of work. For example, in a handicap retrofit project, which involves removing old concrete and pouring in new concrete, the subcontracting portion would be flat work concrete, which is in the company's own line of work. Thus, it is difficult to find subcontractors who want to bid to the company and break the project off to give away part of the work. Interviewee #18 has had some signal projects where the electrical work can be subcontracted out, but he stated that there are not many minority electrical contractors. In the area of striping work, Interviewee #18 has worked together quite well with some minority subcontractors. Most of the time, Interviewee #18 has good experience working with DBEs. Overall, Interviewee #18 is having a difficult time finding DBEs that do the type of subcontract work he needs.

Interviewee #11, a Native American male-owned business, recounted that the company's experience using other DBEs has been “very good.” The company has built relationships with some smaller firms that are very responsive and who understand the Caltrans process, forms, and all of things that must be in a proposal. Interviewee #55, a white male-owned business, has used a minority DBE as a subcontractor for some work that it performed as a prime contractor. Interviewee #55 has never bid out projects to companies based on the fact they might be disadvantaged, minority, or female-owned, stating, “I don't ever go into a bid with that specific thought. Now, I say 'who is the best company for this project?’”

Interviewee #19, a Hispanic male-owned business, does not know whether their subcontractors are DBE registered, and they do not check their DBE status, but some of the subcontractors are in fact minority-owned. The company has not yet needed to determine whether its subcontractors are DBEs. Interviewee #31, an African American female-owned business, said that his company uses “anyone that has the capabilities” but noted that, though there are not that many DBE firms out there, the company “whenever possible . . . tr[ies] to promote utilization of WMBEs.”

According to Interviewee #46, an Asian American male-owned business, some of the company's subcontractors are MBEs and WBEs, but “[i]t all depends on what job”

CATA #6, a trade association representing heavy engineering contractors, recounted “[t]hey'll use whoever their going to use regardless of whether they are a DBE or not.” The contractor wants to use who they feel comfortable with. “Ultimately, at the end of the day it's who is low bid.” On private projects, more than public, contractors can be more picky on the subcontractors that they use, but on

a low bid scenario they're probably just going to go with the low bid, regardless of whether they are a DBE."

CATA #6 stated that a lot of times people do not disclose that they are a DBE contractor so the prime does not know that they are using a DBE contractor until they go to list their subcontractors. "I don't think there has been any change" since the suspension of the goals. There was never a requirement to use DBEs, you just had to have a good faith effort. It was the choice of the prime whether they would use a DBE. She does not feel there is a preference currently for contractors who use DBE subcontractors. CATA #6 indicated that subcontractors are used by the same primes in the public and private sector.

A non-DBE engineering firm, stated: "there seems to be a shortage of DBE certified firms for most service areas. We have found on many occasions that there are simply no DBE firms or no DBE firms available. We feel that including DBEs on our team even in non-required situations not only assists in promoting diversity, but quite frankly increases our chances of winning those projects that we would like to be working on. Obviously, the lack of these special firms creates a number of issues." (Written testimony submitted 4/16/07).

Utilization of DBEs by Prime Contractors in Public vs. Private Sector

Some subcontractor interviewees reported that different prime contractors used them in the private sector as used them in the public sector. CATA #10, an Asian American trade association, stated the same prime contractors do not necessarily use the same subcontractors in the private sector as they do in the public sector unless they have a long relationship "because they only were hired because they had to meet the goal." Otherwise, "in our business, it is the good ole' boy network." Some prime firms will use a member firm in the public sector because they are DBE or minority or have a good reputation but then will not use them in the private sector. He stated this happens "most of the time." He stated in particular after Proposition 209 and after implementation of the race-neutral program this situation is more noticeable.

CATA #9, an association of consulting, engineering, and land surveying firms, stated that with respect to DBE utilization, it is completely different in the private versus the public sector. He stated that his members who have worked for a prime in the public sector have been unsuccessful in obtaining work from that same prime in the private sector; he stated this is based on cost. He stated that a prime will only use a subcontractor if it is cheaper than using their own staff; he said in the private sector you will see a mark-up on a subcontractor anywhere from 15-25%.

CATA #1, an Asian American trade association, and CATA #3, a Hispanic trade association, stated that there was no cross-over between the primes that use his company as a subcontractor in the public sector and those that do so in the private sector, and that there is very little, if any, of this cross-over between the prime contractors that subcontract work to the Association's members.

Interviewee #43, a Native American male-owned business, stated that he has not used the same subcontractors in the private and public sectors. Interviewee #43 supposes he could potentially use the same subcontractors in both the private and public areas (welders/electrical) though he has not done so.

Interviewee #65, a white male-owned business, does not use the same subcontractors in the private sector as in the public sector because the insurance requirements changed, and he was no longer able to afford the insurance.

Interviewee #11, a Native American male-owned business, stated that the company's experience in the private sector is that since the clients are not held to a bidding process, the clients value relationships more than anything else. In his experience, there has been no overlap between the primes that use the company in the public sector versus the primes that use the company in the private sector. Interviewee #11 explains that in the private sector, the primes like to keep most of the work in-house and there is no effort to use DBEs.

Interviewee #57, an Asian American male-owned business, noted that the prime contractors who use the company in the public sector do not use his company in the private sector. Interviewee #59, an African American male-owned business, noted that the same prime contractors who use Interviewee #59 in the public sector do not use the company in the private sector.

Many stated that prime contractors tend to specialize in either public or private sector work.

According to Interviewee #33, a Hispanic female-owned business, and Interviewee #43, a Native American male-owned business, the prime contractors that use their companies in the public sector do not use it in the private sector because they are a "different group of people." Interviewee #33 said that most of the prime contractors for whom she works on public sector projects "don't even do private work." Interviewee #54, a Hispanic male-owned business, said that he does not subcontract out any work, and that he works as a subcontractor only in the private sector, and thus the contractors that use him in the private sector do not use him the public sector.

Interviewee #48, an Asian American male-owned business, indicated that the company did not use the same subcontractors in the public and private sectors because these were "completely different areas." According to Interviewee #65, most of the contractors performing public works jobs do not do private work – he does not think that he has ever run into one (at least with Caltrans).

According to Interviewee #79, an African American male-owned business, prime contractors who use him in the private sector are different than the primes who use him in the public sector. Interviewee #81, a Hispanic male-owned business, said the people he works with on public projects do not perform private work. Interviewee #61, an Asian American male-owned business, agreed.

Interviewee #14, a white male-owned business, uses different contractors depending on whether it is working in the private or the public sector. According to Interviewee #26, a white male-owned business, there are different groups of contractors who do private work and who do public work, in part because of the prevailing wage requirement for public work, and thus it is "fairly rare" to use the same subcontractors for private and public sector work—"you have public works people and then you have your private works people."

Interviewee #48, an Asian American male-owned business, stated that the prime contractors that use his company in the public sector do not use it in the private sector, and that his company had not attempted to obtain private sector work from a prime contractor that used his company in the public sector. Interviewee #48 stated that the company's private sector work is risk management work for the insurance industry (namely surveying and imaging) whereas its public sector work is more

research and development, thus the company's public and private sector work is for different types of firms.

Some interviewees reported using the same subcontractors in both sectors. Interviewee #13, a Pakistani male-owned business, stated that his firm sometimes subcontracts out the drilling work on its projects, and that he uses the same subcontractors on both public and private sector projects. He was "personally not aware" of whether these firms were DBEs, stating "some maybe, some maybe not" and that "[i]t is not of concern to me." Interviewee #13 stated further that he did not have to contact DBE firms since his firm is a DBE, and therefore itself satisfies DBE goals or requirements on Caltrans and other projects, and that "being a DBE I wouldn't be hunting a DBE firm."

CATA #9, an association of consulting, engineering, and land surveying firms, stated that his members use the same subcontractors in the public sector as they do in the private sector, typically on development projects, residential and commercial (structural engineering, electrical, mechanical, land surveying, and water resources subcontractors). He stated that DBE utilization is not tracked on the private side but he knows that a lot of the subcontractors are DBEs. Most of these projects are below the \$1 million range.

Some DBE firms reported that the same prime contractors who used them in the public sector also used them in the private sector. Interviewee #68, a white male-owned business, and Interviewee #62, a white male-owned business, stated that the same contractors for whom they do work as a subcontractor in the public sector also use their firms for private sector work. Interviewee #49, an African American male-owned business, stated that his company uses the same subcontractors, which he said were both MBEs and WBEs, in both the public and private sectors, and that these subcontractors are used for electrical, street lighting, concrete (curbs and gutters), and striping work. Interviewee #61, an Asian American male-owned business, stated that the same primes that use the company in the public sector use it in the private sector. As indicated by Interviewee #42, an African American male-owned business, there are "one or two" prime contractors who use him both in the public sector and in the private sector.

When asked whether he used the same subcontractors in both the public and private sectors, Interviewee #47, a white male-owned business, stated, "[y]es, you utilize firms that you are comfortable working with and you know that can deliver the work on time and on budget." Interviewee #46, an Asian American male-owned business, stated that the company uses subcontractors for fiber optics and low voltage communication work, and that it "more or less" uses the same subcontractors for this work in both the public and private sectors.

Interviewee #13, a Pakistani male-owned business, indicated that the same prime contractors that use his firm as a subcontractor in the public sector are not the same ones that use his firm as a subcontractor in the private sector, and that there are primes for whom his firm works for often, though "not as a DBE." According to Interviewee #13, he has a "very long term relationship" with these primes, they are "very happy" with his work, and "any time there is a project where they need geotechnical engineering service[s] they put me on the team whether there's a DBE requirement or not."

Interviewee #56, a white male-owned business, stated that the same prime contractors who use his company for Caltrans work use his company for other work in the public sector. He has the same types of equipment to supply for both Caltrans and non-Caltrans projects. Interviewee #56 does not

generally perform private sector work. Interviewee #50, a white male-owned business, uses the same subcontractors in the private sector as he does in the public sector. Interviewee #47, a white male-owned business, stated that the same primes use them in public and private, depending on the work.

Interviewee #10, an African American male-owned business stated that "some" of the prime contractors that use his company in the public sector also use them in the private sector.

Interviewee #27, an African American male-owned business, stated that the same prime contractors for whom the company works in the public sector also use the company as a subcontractor in the private sector and that these contractors are local companies. Interviewee #27 indicated that the company performs for these primes in the private sector a broader range of work than it does for them in the public sector, including not just underground work but also sidewalks, curbs, gutters, and fences. Interviewee #27 also stated that he could obtain the private sector work that he wants from these prime contractors, but that the company is usually busy enough working on their Caltrans jobs. According to Interviewee #27, "[i]t just depends on how far you want to go and how hungry you want to be."

When asked about usage, Interviewee #58, a white female-owned business, stated that the same prime contractors who use the company in the public sector use the company in the private sector. These have been a full range of contracts ranging from \$10,000.00 to \$1,000,000.00.

Interviewee #31, an African American female-owned business, stated that the prime contractors that use the company in the public sector also use it for work in the private sector, since the scope of the work is "almost identical" and the same civil engineers who work for Caltrans and other agencies also contract for work with private land developers. Interviewee #34, a white male-owned business, stated that the same prime contractors that use the company as a subcontractor in the public sector also use them in the private sector. Interviewee #34 said that the jobs on which they work as a subcontractor are generally more narrow in scope (e.g., a biological survey or air quality and noise study) than when they work as a prime (e.g., as the overall or coordinating environmental consultant).

Some subcontractors stated that they received private sector work after working for the prime in the public sector. According to Interviewee #39, a Hispanic male-owned business, stated that the small amount of work that the company does in the private sector is for the same prime contractors for whom it works in the public sector. According to Interviewee #39, these jobs usually come about when the company is working for a prime contractor on a public sector job, another "little job" that is "usually very small" comes up, and the prime contractor asks them to do this job as well. Interviewee #39 summarized the relationship between these small private sector jobs and its public sector jobs as follows: "[I]f we don't get the public job, we're probably not going to get the private job."

Interviewee #19, a Hispanic male-owned business, has been called and used as subcontractors in the private industry based upon the relationships built while working with Caltrans.

Interviewee #46, an Asian American male-owned business, stated that the same prime contractors that use the company for public sector work also use the company in the private sector, mainly for street lighting and installing conduit systems for their utilities. Interviewee #46 indicated that the price range for these private sector contracts was the same as the price range of its contracts for the same work in the public sector.

Interviewee #51, a Hispanic male-owned business, indicated that the firms that use the company as a subcontractor in the public sector also use it in the private sector, and that once his company gets the chance to work for a prime contractor and demonstrate its abilities, the relationship continues for the prime contractor's work in both sectors. Interviewee #51 said that "it goes both ways."

Interviewee #65, a white male-owned business, noted that, with regard to the school district projects in which his company has engaged, those public contractors have used him in the private sector.

Interviewee #66, a white male-owned business reported that the subcontractors for whom he works use him in both the private and public sectors. Interviewee #66 said that he "vary rarely" gave out work to other firms and that we he did so, he did so on a limited basis with close friends who own trucks.

CATA #2, an African American trade association, stated that he had never looked for (and thus never seen) any cross-over between the firms that use the Association's members for subcontracting in the public and private sectors but that he was "quite sure that [cross-over] happens." He noted that there are no DBE goals on private sector projects and said that his company subcontracts out only public sector work. CATA #2 said that the Association's members use the same subcontractors in both sectors "all the time." According to CATA #2, once a marriage between firms is made, it stays together, and the businesses support each other in both sectors.

Interviewee #30, an Asian American male-owned firm, stated that while logic would suggest that prime contractors would use DBEs in the private projects after having worked on projects with the DBE in public projects, practically speaking, he does not believe that it happens. He states that the prime might have a whole plethora of subcontractors to pick from and in the private sector most of it comes down to price.

Some prime contractors reported using the same subcontractors in both the public and private sectors. Interviewee #7, a white female-owned firm, stated that the company uses the same subcontractors for both its private and public sector work. The company subcontracts out work for aerial mapping, speed billing, traffic counts, and some architectural work, including with DBE firms.

Interviewee #1, a Native American male-owned business, stated that he also uses the same subcontractors in the private sector as he does in the public sector. When he utilizes subcontractors, it is for specialty testing like for pesticides and radioactivity. According to Interviewee #1, these are generally not DBEs or M/WBEs.

Interviewee #5, a white female-owned business, uses the same "core group" of subcontractors for its work, though which subcontractors are used depends on where the work is located. Interviewee #5 uses the same subcontractors in the private sector that it uses in the public sector. Interviewee #5 stated that the company uses subcontractor DBEs to do as much as twenty percent (20%) of the work on some projects, but that on other projects the percentage is zero.

Interviewee #58, a white female-owned business, uses the same subcontractors in the private sector as in the public sector, and these companies generally perform very specific technical pieces of work with a general worth of \$25,000. Similarly, Interviewee #10, an African American male-owned business, relayed that his company uses the same subcontractors in the private and public sector.

Interviewee #10 said that most of the subcontractors that the company uses on public sector projects are DBEs, but that "we don't use them [DBE subcontractors] all the time" on private sector jobs.

Interviewee #17, a white male-owned business, stated that the company does use the same subcontractors in the private and public sector, mainly for subcontracting surveying work. Interviewee #17 also stated that though the company "sometimes ha[s] a call for DBEs" in the private sector, this happens "very rarely" since "it's mostly in the public [sector] if we use them at all." The firm has used DBEs on public sector work for the Metropolitan Water District, the Eastern Municipal Water District, and other agencies.

Interviewee #19, a Hispanic male-owned business, uses the same subcontractors in both the private and public sectors, however, Interviewee #19 points out that if the client requests that they use a different subcontractor, then it will comply.

Interviewee #31, an African American female-owned business, stated that it performed most of its work in-house, but occasionally uses subcontractors for potholing for both its public sector and private sector work. Interviewee #32, an Asian American female-owned business, said that her firm uses the same subcontractors in the public and private sectors, and that these subcontractors are local DBE firms to whom she subcontracts out environmental work. Interviewee #44, a Middle-Eastern male-owned business, also uses the same subcontractors in the private sector that he does in the public sector, but doesn't know if any of them are certified as a DBE. Interviewee #44 subcontracts traffic light work, landscaping, and other small projects.

Interviewee #33, a Hispanic female-owned business, said that when her firm is the prime contractor, it tends to use the same subcontractors, but that "it varies." She said that some of the subcontractors are DBE firms but noted that she does not need to use DBE firms to satisfy a DBE goal on a project. Interviewee #33 stated that "all else being equal, [she] will choose the WBE and/or MBE firms" but that if a particular firm has experience that will help her company get the job, she will use them "regardless of whether they're WBE or MBE."

Interviewee #34, a white male-owned business, stated that the company uses the same subcontractors in the private sector that it uses in the public sector, and that these subcontractors usually are specialty firms. Interviewee #34 said that some of these firms are DBEs on specifically subcontracts that the company uses for endangered species surveys, geotechnical work, public participation, landscape architect, and biological work. Interviewee #35, a white female-owned business, uses the same primes in the public sector as in the private sector. Interviewee #35 uses some female DBE subcontractors and one ethnic minority subcontractor who is not certified as a DBE in the public and private sector.

Interviewee #45, a white male-owned business stated that "in general," he uses the same subcontractors in the private sector as he does in the public sector. With respect to whether he has attempted to use DBE/MBE/WBE subcontractors in the private sector that he used in the public sector, Interviewee #45 stated that if they are the low bidder, he will use them.

Interviewee #45 stated that everyone has to follow the rules. Interviewee #45 noted that "everyone has a perception that DBEs come along and we have to foster them to bid in those situations they can't survive." Interviewee #45 stated "Caltrans gives no leniency after you get the job, they don't

care if the guy quits the job, Caltrans said we have rules if you have to replace the subcontractors we don't care if it's a DBE. When subcontractors go down it is a problem to the [general contractor]."

Interviewee #51, a Hispanic male-owned company, stated his company uses the same group of suppliers and subcontractors that it likes working with in both the public and private sectors for concrete structures and hot-tapping work, as well as for trucking, landscaping, and sweeping. Interviewee #51 also said that the company "do[es] not care if the guy is a minority or not a minority or disadvantaged or not disadvantaged" but instead cares if the subcontractor can do a good job and meet the criteria of the specifications, and that the company wants to help minorities "in every way [it] can" and "prefer[s] to use DBEs or . . . veterans . . ." so long as they are going to do a good job and help the company meet project requirements. Interviewee #51 also stated that though the company generally uses the same subcontractors, it was open to developing and had developed relationships with new subcontractors and suppliers.

Interviewee #68, a white male-owned business, typically uses the same subcontractors in the public and private sectors, and it subcontracts out work to botanists, biologists, irrigation designers, and lighting engineers. Interviewee #68 said that the firms he uses as subcontractors are local ones, including a WBE that he used "all the time," but which was no longer in business.

Interviewee #52, a white male-owned business, stated that he sometimes subcontracts out work. He said that he uses the same subcontractors for the same work in both the private and public sectors. Interviewee #52 also said that once one "get[s] good subcontractors . . . , you don't go out changing them." According to Interviewee #52, one of the firms that he uses (a geo-analytical firm) is a woman-owned business, and another is a minority-owned business, and he has used them both in the public and private sectors.

Interviewee #59, an African American male-owned business, uses the same subcontractors in the private sector as in the public sector, including DBEs, MBEs, and WBEs. Generally, Interviewee #59 subcontracts out contracts that are multi-disciplinary, particularly in the areas where he cannot provide services. Interviewee #59 has attempted with success to use the same DBE, MBE, and WBE subcontractors in the private sector that he uses in the public sector.

Interviewee #73, a white male-owned business, noted that if he worked in the public sector, he would use the same subcontractors there as he does in the private sector. These subcontractors probably are not DBEs. He subcontracts out back-hoe services, concrete cutting services and equipment rental.

Some DBE firms reported that various prime contractors only used them on projects where there was a DBE requirement. Interviewee #31, an African American female-owned business, said that "even if we work with that firm consistently in the private sector they will not call us unless there is a specific reason to do so if it is a Caltrans project[]" and stated further that "if Caltrans does not enforce or pursue utilization of WMBEs and specifically call for professionals in our area of expertise, the 'civils' [civil engineering prime contractors] are not going to call us up. I do not care how many projects we work with them [on] in the private sector, it is not going to happen."

CATA #1, an Asian American trade association, said that unless there is a DBE requirement (i.e., public sector), prime contractors will do in-house all the work they can and will use DBE firms only if these firms can provide services that the big prime contractors cannot do themselves. CATA #3, a Hispanic trade association, said that where there is no DBE goal (i.e., the private sector), prime

contractors do not "bring [DBE firms] into their fold of business," and that prime contractors will generally not use DBE firms for subcontracting where there is no requirement to do so.

Interviewee #13, a Pakistani male-owned business, noted that if the DBE requirement is there, . . . [it is] satisfied . . . That's the only impact it [DBE certification] has made on my business. The primes who had been working with me the last twelve [or] thirteen years do not have to go to somebody else to satisfy DBE requirements. That's the only difference it can make."

Interviewee #9, a white male-owned business stated that his division uses the same subcontractors in the private sector that it uses in the public sector, and that most subcontractors were selected because of their qualifications and the need to comply with DBE "set-aside" requirements.

Interviewee #34, a white male-owned business, acknowledged that the company "consciously" uses DBE firms in the public sector because it helps them meet DBE goals and estimated that about twenty percent (20%) of the company's public sector work is subcontracted to DBEs. Interviewee #34 summarized the firm's DBE utilization practices as follows: "Well, to be truthful, I would say we are more conscious of . . . When we're doing private sector work, we probably are most focused on which subcontractor-consultants . . . we've had the best results with in the past. In the public sector, we're always conscious of the need to meet the various goals of the public agency. And I'm not saying those two objectives are mutually exclusive. It's just that there are times when, if you absolutely had your druthers, you might use one subcontractor over another, and that could potentially be at the expense of a DBE. And if you were working for a public sector client, it's conceivable that you might have made a different decision."

Interviewee #7 stated that they try to get private sector work from prime contractors that use them in the public sector but that they have not been successful, as prime contractors contact them only when they need to meet a DBE goal. According to Interviewee #7, there is no incentive for a project manager at a prime contractor to contract out work to them or other DBE firms in the private sector because project managers are rewarded and compensated based on how much work (and money) they can bring in to their firms.

Interviewee #7 felt that whether or not their firm actually got hired to work as a subcontractor on Caltrans and other public sector jobs depended on whether the prime contractor had satisfied the minimal DBE goal by using other DBE subcontractors. If the prime had done so, then their firm did not get the job, unless "they [the primes] need help." Interviewee #7 identified as an issue that in these situations where primes need immediate help, it is difficult for small DBE firms to provide the necessary personnel and equipment "with no advanced warning that this [work] was coming up."

Interviewee #43, a Native American male-owned business, stated the following: "What I have come to learn . . . of companies that are requesting quotes of DBEs . . . is that they are trying to fulfill some sort of obligation or requirement. And there's really not an interest in actually receive – they're more interested in just making the contact and requesting the bid, than they are in actually receiving a bid. So there must be some sort of quota requirement or something that they have to contact a certain number of DVBEs or DBEs in order to qualify for something. Ultimately, Interviewee #43 opines that they are more interested in making a contact and requesting the bid than in actually receiving it. He said this has happened more than once, and receives requests weekly. Interviewee #43 said he has, on occasion, followed up on quotes in which he was interested. He said the outcome of those is that there are delays and the "interest falls off pretty fast when you respond."

CATA #10, an Asian American trade association, stated that, in many cases, if there is no requirement, a prime will not use a DBE firm. CATA #10 does not have knowledge of a prime refusing to work with a DBE because it is a DBE. On a professional service contract, they will assemble a team, and the larger firm will not negotiate the price until they are awarded the contract. In order to assemble a team, a prime will ask for information from a subcontractor as "window-dressing" because the team is already assembled; they do not want it to get back to the public agency that the big firms are not "cooperating." Many times they won't do anything once they receive the information from the smaller firm.

Some DBEs stated that they are used even when there is no DBE requirement. Interviewee #1, a Native American male-owned firm, stated that in the past five years, he has had two three-year contracts as a subcontractor on Caltrans projects at a price of about \$100,000.00 per year. He stated that these contracts did not have a DBE goal, and that he did not receive the contracts because he was a DBE.

Interviewee #32, an Asian American female-owned business, indicated that the prime contractors who use her firm as a subcontractor in the public sector (which is usually for the environmental portion of construction projects) do not do so in the private sector. Interviewee #32 stated that she had not worked for any prime contractors in the private sector. According to Interviewee #32, "in the private sector there's no need to subcontract to DBEs or small businesses. There's absolutely zero incentive for large businesses to subcontract out because the private sectors do not expect that."

Interviewee #3, an Asian American male-owned business, noted that the company uses DBE subcontractors only in the public sector. Interviewee #3's company uses small business subcontractors in the private sector, but is not as DBE-conscious as in the public sector. Interviewee #9, a white male-owned business, relayed that his division wants to work with people with whom it has worked in the past, and who can deliver and meet the firm's needs. His division uses DBE subcontractors in the private sector (where there is no DBE goal or requirement) if it thinks that these firms are good ones.

Interviewee #15, a white male-owned business, stated that he uses DBE's less frequently in the private sector just because he uses fewer subcontractors in the private sector generally. This is because he is not required to do so whereas in the public sector it is a requirement of doing business. When he does use subcontractors, he didn't feel that DBE status mattered either way. That is, Interviewee #15 said that there are excellent DBE firms that he uses for public and private sector jobs and there are excellent non-DBE firms he uses. The main difference seemed to be that when contracting in the public sector, he was required to do more subcontracting and to use more DBE firms in order to win bids so he does this.

Interviewee #68, a white male-owned business, said that because no agency ever required that he uses a DBE subcontractor, it was not something that he considered in his selection criteria.

Refusal to use DBEs:

No interviewee stated that they had refused to solicit or use a DBE based on race, ethnicity, or gender. Some interviewees stated that they refused to work with particular DBE firms due to issues with work quality. Interviewee #26, a white male-owned business, stated that while he had never refused to work with a DBE up front, he had used DBE contractors with whom he had experiences and from whom he now "would not solicit for subcontractor bids because [he] would not want them

on [his] job.” Interviewee #40, a white male-owned business, stated that she had never refused to work with a DBE except for one company against whom her company filed a claim for failure to complete the work on a Caltrans project. Interviewee #56, a white male-owned business, indicated that he has never refused to work specifically with a DBE, but that there are just certain firms that he refuses to work with, regardless of their individual status and/or classification. Although Interviewee #65, a white male-owned business, stated that there was one time when the company refused to work with a DBE, “they worked it out.” Interviewee #25, a Hispanic male-owned business, specifically stated that “no firm has ever refused to work with him because he is Hispanic.” Interviewee #3, an Asian American male-owned business, noted that while he has never refused to work with a DBE, “he one time refused to work with a company who wanted to use Interviewee #3’s DBE status to submit a bid, but who had no intention of actually having Interviewee #3 do the work.”

Interviewee #42, and African American male-owned business, stated he has never refused to work with a DBE because “they worked pretty hard to get where they are . . . [and the] majority of them [are] pretty good.”

Interviewee #18, Native American male-owned firm, has never refused an opportunity to work with a DBE, other than as part of the low bid requirement of the selection process. Interviewee #18 tries to favor DBEs when he has work that needs to be subcontracted out to other minority contractors but they are not always the low bidder. Interviewee #18 uses DBEs when he can. Additionally, the contractor may have a reputation about how they treat their subcontractors and how promptly they pay their subcontractors. Interviewee #18 avoids contractors that are in litigation in every job they do and the subcontractor's money gets tied up until the end of the litigation. According to Interviewee #11, a Native American male-owned firm, the company has declined to work with some DBEs, but only as a part of the normal teaming selection process.

CATA #9, an association of consulting, engineering, and land surveying firms, stated that he heard of firms refusing to work with a DBE, but then noted, “[t]hey didn’t realize I was there. A couple of prime firms were talking about there's no good DBEs around, you know, they can’t perform.” He does not think it is common to state that in public. He does not have any knowledge of anyone refusing to work with a DBE because they are a DBE.

No DBE stated that another firm had refused to work with them based on race ethnicity or gender. However, some DBE firms felt that prime contractors were not genuinely interested in using DBEs. CATA #1, an Asian American trade association, stated that he had never refused to work with a DBE firm. When asked if a prime contractor had ever refused to work with his business or his members' businesses because they are DBEs, CATA #1 said that the refusal is “very subtle” and that the discrimination is not on the surface but rather is buried deeply in peoples' minds. And, said CATA #1, people show this discrimination through their actions (even though they do not outright say they do not want to work with a DBE firm).

Interviewee #8, a Hispanic male-owned business, noted that a prime contractor had never refused to work with him because it is a DBE, and that the company gets contacted “quite a bit” by prime contractors soliciting bids on Caltrans projects. This interviewee stated further that, “basically all the do is meet their good faith efforts and never have any intentions of using [the company].” Interviewee #21, a Hispanic male-owned business, indicated that he has never been directly been denied a job because he is a DBE, but stated that many times the company will get calls for the good faith requirements from companies that are known to do similar work themselves; it is obvious to

Interviewee #21 that such calls are not serious. Interviewee #29, a Hispanic male-owned business, stated that he has never had a company “refuse” to work with his company because he was a DBE, but he stated that in essence companies do exactly that by skirting good faith requirements. He noted further that, on occasion, when he has asked various companies soliciting bids what the nature of the work would be, that the response was “no, I just need your credentials.”

Interviewee #31, an African American female-owned business, recounted an experience that happened a number of years ago when a South African firm had awarded a private sector contract and his company had been hired and put on the project team. The company was later fired because the owner of the South African firm did not want him working on the project. Interviewee #31 went on to say that “it has been really tough breaking into the professional arena[,]” and noted that, “the majority of the time you are not going to see people of color in these meetings, whether it is on a public sector or a private sector project . . .” Interviewee #33, a Hispanic female-owned business, stated that, to her knowledge, a prime had never refused to work with her because her firm is DBE, but she noted that, “[She doesn’t] know what [firms] decide internally.” Interviewee #27, an African American male-owned business, stated that a prime contractor had never refused to work with him because his firm is a DBE. Interviewee #39, a Hispanic male-owned business, did not think that another firm had outright and overtly refused to work with the company because it is a DBE, but he said that the company does “get the feeling that if it’s not a DBE requirement, . . . they’re [other companies] not going to seek [them] out.”

Interviewee #46, an Asian American male-owned business, stated that his firm had never refused to work with a DBE. Neither had a prime contractor ever refused to work with his firm because it is a DBE firm. In fact, said Interviewee #46, “[u]sually [it’s] the other way around [because] people really want you to bid the work.” Interviewee #59, an African American male-owned business noted that a prime has never refused to work with him because he is a DBE, but he has felt like that was the case in certain situations.

Interviewee #67, a white female-owned business, shared her impression that, on the whole, prime contractors’ efforts to utilize DBE firms now end at the good faith efforts stage, and primes keep work in-house to the maximum extent possible. Interviewee #25, a Hispanic male-owned business, stated that no firm has ever refused to work with him because he is Hispanic.

Interviewee #81, a Hispanic male-owned business, stated that a prime has never refused to work with him because he was a DBE. In fact, once they know you are a DBE and that you do quality work, “primes go nuts over you.” Interviewee #81 often gets calls from a prime requesting a bid on private sector work; gets these calls by referrals, the average price of these contracts is \$30,000.00; he usually gets the job.

Interviewee #82, a white male-owned business, does not think he ever used any DBEs and tends to use the same subcontractors each time. Interviewee #60, a Asian American male-owned business, never refused to work with another DBE, but he thinks that others have not worked with him because they already have other DBEs. Interviewee #60 thinks that his status is just an excuse for people not working with him.

Interviewee #42, an African American male-owned business, stated that he did not recall a prime contractor refusing to work with him because he is a DBE but “if they did it was . . . one of those sly type things.” He stated that he has had experience with contractors being “very nice to you, but

they'd never hire you." Interviewee #7, a white female-owned business, stated that the company had never refused to work with a DBE firm and that no one, so far as they were aware, had ever refused to work with them because they are a DBE firm. Interviewee #7 stated that the philosophy of the larger firms was to do as much work in-house as possible, and Interviewee #7 stated that "if there's no DBE goal we don't get a call" and that primes simply "want to hit [whatever] the minimal DBE goal is." Thus, according to Interviewee #7, "on the private [side] they just don't hire us."

Interviewee #11, a Native American male-owned firm, stated the company has not been refused work because they are a DBE, although he has had the experience of having been put on a team because they were a DBE and then they were not used in the actual project work. Interviewee #11 noticed that with the larger firms, they believe that certain firms have either political contacts, certain experience to help them win the project as a prime, but once they get it because they have to report to their directors, a lot of times they will drop those firms and keep the work in-house so they can improve their bottom line.

Interviewee #57, an Asian American male-owned business, stated that, to his knowledge, has ever refused to work with him because his company has DBE status; he thinks to state otherwise would be more of a speculation. Interviewee #58, a white female-owned business, has been approached by firms on the basis of the company's WBE status and refused work – either they didn't need that company's services, or they already had their internal team together. She has never refused to work with a company because of its certification, nor does she think that anyone has refused to work with the company because of its certification.

Interviewee #20, an Armenian male-owned DBE business, has not yet submitted any bids for any Caltrans projects. He has never been refused a job or been put on a job because he is a DBE, since he has only been certified for a month.

Caltrans Bidding Process

Interviewees reported varying degrees of experience with Caltrans bidding. Interviewee #40, a white male-owned business, has done substantial work with Caltrans, and stated Caltrans forms are repetitive from job to job and have been fairly straightforward for several years. The process is uniform and cut and dry, but now that there is no DBE or DVBE requirement, he said makes the process much easier. "When you're low bid you get the job. If you're not low bid, then you don't get the job. They're pretty simple as far as that goes." Interviewee #40 has not had much experience submitting through RFPs to Caltrans, but notes that process is generally for the smaller agencies and local government entities. Interviewee #40 stated that Caltrans' phone system when she has questions is time consuming, but that in general it's easy to get the necessary information to complete bids.

With respect to the Caltrans bidding process, Interviewee #45, a white male-owned business, stated: "that's our life." They've learned the ins and outs and they abide by it per se. He said 10 years ago when they were "demanding" DBE utilization, it was "very difficult to choose the low bidder and also have the (DBE) percentage [and] now it's just a mere fact of low bid" and they give you their best price.

Interviewee #47, a white male-owned business, reports that Caltrans work is their "bread and butter." He thinks the bidding process is "working fairly smoothly now." Caltrans has established "some schedules within the proposal process to let you know ... when the interview is going to be ... and if

you have been selected for the work when the negotiation schedule is going to be." This has "reduced the time frame from proposal submission to contract issuance." Caltrans "is doing a better job now."

Others interviewees reported limited experience with the Caltrans bidding process. With respect to bidding with Caltrans, Interviewee #6, a white female-owned business, stated that "[i]t's not like they're sending me bid packages to bid on" Instead, a Caltrans employee comes into the store to purchase "necessary items" (i.e., things that Caltrans needs right away), and thus #6 has no experience with the Caltrans bidding process. Interviewee #6 stated that the company has never had the opportunity to bid anything with Caltrans, but that it would bid if Caltrans were "more proactive" and solicited bids from the company.

Interviewee #38, an Afghan male-owned business, had no experience with the Caltrans bidding process. He stated that he typically found work by word of mouth within the Afghan community of dirt haulers. He stated that he would very much appreciate hearing about work opportunities from Caltrans and that he and his friends were willing to travel anywhere in the state to obtain work, but that they lacked readily available information sources. None of them owned or had easy access to computers and so internet listing of projects would not be helpful to them. Interviewee #38 also suggested that more transparency should be required on the part of the contractors for whom they work as to how much Caltrans was being billed for their services. Interviewee #38 believes that not only is he being underpaid for his work, but that the contractors are then over-billing Caltrans and the other public agencies as well.

Interviewee #44, a Middle-Eastern male-owned business, reported no real experience. He tried to place a bid once; he called for the specs but never heard back. Interviewee #44 feels he is not given adequate notice of Caltrans bidding opportunities. He usually hears about them through Caltrans advertisements, but when he calls for more information, he cannot reach a live person. He leaves messages but no one ever calls him. He usually contacts subcontractors regarding submitting a price quote, not the other way around. Interviewee #44 recommends making the Caltrans bidding process more accessible to the public. He also feels the process in general is too complicated; he "got scared" and stopped trying to participate. When asked what scared him, Interviewee #44 replied that the engineers have an attitude about how things should be done.

Interviewee #48, an Asian American male-owned business, had only one experience with Caltrans' bidding process, when his company was part of a team that bid on a contract to pilot-test software. Interviewee #48 stated that the job went out to bid and the prime contractor with whom this company bid wound up getting the job. Interviewee #48 felt that the job was advertised well, but he noted that he could speak about only the advertisement of this particular job and not Caltrans' advertising of its jobs generally. Interviewee #48 stated that he had never been denied the opportunity to bid work for or submit a price quote to Caltrans.

Interviewee #52, a white male-owned business, stated that he more or less takes what work comes to him and does not really look for it. He said that he had bid some government jobs for on-site safety and quality operations for the federal government in California, and that on the one Caltrans job on which he had worked, the prime contractor reached out to him. Thus, Interviewee #52 stated, he did not have much experience with Caltrans' bidding process.

Interviewee #54, a Hispanic male-owned business, had no experience with Caltrans' bidding process, but he stated that Caltrans does not adequately notify businesses of work opportunities or make it

known that there is a bid opportunity. He said that, since he had never been notified about a Caltrans job, he "would say" that he had been denied the opportunity to bid work for them.

Interviewee #59, an African American male-owned DBE/MBE business, has not had a lot of experience bidding with Caltrans because the bonding requirements are so high for the construction portion of their projects. The design work that the company has done is in the role of subcontractor - the company cannot compete with the larger firms. There have been bid teams that Interviewee #59 has been a part of for Caltrans work but he has never received any of that work. Interviewee #59 does have an on-call contract of which he is supposed to receive thirty per cent (30%) of the work, but he has seen nothing, and it is the third year of the project. Interviewee #59 notes that when the DBE program was enforced, the bidding process was easier because the primes would call the company and then request a "suite of disciplines" that they knew the company would be offering.

According to Interviewee #66, a white male-owned business, he was not too familiar with Caltrans' bidding process because he works with subcontractors on Caltrans projects, and these subcontractors bid to primes (who in turn bid to Caltrans). The subcontractors call him with the work. Interviewee #66 said that he had never seen anything giving him the opportunity to bid and that nothing had ever been sent directly to him. He also said that to him it seems like most of the trucking jobs come through general contractors, and that he did not know how to find out about what primes are bidding on Caltrans jobs, outside of contacting them directly.

Interviewee #25, a Hispanic male-owned business, has never submitted a bid or RFP to Caltrans and thus has no experience with the Caltrans bidding process. Interviewee #25 stated that he would like to work for Caltrans but that he doesn't know how to go about doing so.

Interviewee #42, an African American male-owned business, stated that he has not "seen" the Caltrans bidding process in a long time "but I know you have to have a bond along with the bid." As per notice, he stated "the blue book sends me stuff all the time but I haven't really seen much in regards to just Caltrans work." He stated that "it costs too much money to get a lot of information" on bid opportunities. He stated he has never been denied the opportunity to bid with Caltrans.

Positive experience.

Some of the interviewees described the bidding process as neutral or positive. When asked about his experiences with Caltrans' bidding process, Interviewee #8, a Hispanic male-owned DBE, responded that "[i]t seems to be okay." He stated that there is "room for improvement" in Caltrans' advertising and providing notification of its contracts but that "it's not too horrible."

With regard to the Caltrans bidding process, Interviewee #9, a white male-owned business, stated only that "[i]t is a bidding process." Interviewee #9 stated the firm prefers to be hired based on its qualifications, and not necessarily on price or fee, but that only sometimes does Caltrans use "a truly qualifications based selection."

Because the company is a professional services business, Interviewee #19, a Hispanic male-owned DBE business, reported that it is not engaged in the outright bidding process. Rather, only Caltrans knows how they determine their selection. It is an interview process of the various teams, interviews and then a rating or a point system. Interviewee #19 stated that he has not seen any major problems, but he said that it is a "necessary evil" and has become better over the years.

Interviewee #21, a Hispanic male-owned DBE business, reported that the company has been successful in bidding on Caltrans projects in the past. The company believes that the Caltrans bidding project is fair.

Interviewee #29, a Hispanic male-owned business, believes the opportunity to bid or to submit a price quote, is straightforward and you just have to “follow the process.”

CATA #2, an African American trade association, bids a fuel contract with the State of California through its Department of General Services and then supplies fuel to Caltrans (and other agencies) from this contract. The Association's members, he said, had found Caltrans' bidding process to be "a pretty good process."

The company has been short-listed for prime work several times, but has not made it past this point. Interviewee #11, an African American male-owned DBE business, has noticed that recently Caltrans shortened the presentation part of the interview, and he believes that this is a “positive thing, because anyone can pretty much stand up there and present their qualifications.” Interviewee #11 believes that the Q&A sessions are more productive. However, Interviewee #11 believes that Caltrans' interview questions are “sanitized,” and thus Caltrans lack the ability to ascertain the quality of the team beyond their “canned” list of questions. Interviewee #11 recommends that Caltrans should allow for some follow up questioning so that there is more interaction. Interviewee #11 observed that sometimes the interviewers are “bored.” As a subcontractor, Interviewee #11 observes that the Caltrans process has been “fairly smooth.”

An educational provider stated, "having provided supplier services to DOT, Caltrans on several limited-content training contracts, I have found no difficulties relative to bidding or on designated RFQs or RFPs." (Written testimony submitted 3/12/07).

A non-DBE, stated: "We do not face any difficulties or barriers when bidding." (Written testimony submitted 3/16/07).

A Native American DBE, stated the competitive bidding process is not self-explanatory and the DBE program has assisted first time contractors and taught them how to "qualify, compete, and meet deadlines." (Written testimony submitted 3/20/07).

Negative experience.

Of those with experience regarding Caltrans bidding process, approximately half of interviewees reported some negative experiences. Interviewee #3, an Asian American male-owned business, said that Caltrans could be more "user-friendly" in the bidding process.

Interviewee #5, a white female-owned DBE business, expressed that the company had overall unfavorable experiences with Caltrans bidding, particularly over the last few years. Interviewee #5 stated that the company had no experience being denied the opportunity to bid or submit a price quote, but he did state that the Caltrans bidding system "is broken," the bid inquiry system is "very poor," and bidder inquiry is a "huge problem" that Caltrans needs to fix. Interviewee #5 felt that Caltrans uses unreasonable working days, makes unreasonable requests, and uses cost and reimbursement figures for equipment rentals, fuel, and other materials that are not reflective of actual current market prices. Interviewee #5 also stated that Caltrans' bidding does not account for opportunity costs incurred by contractors doing work for Caltrans.

A female business owner stated that she has been excluded from the bidding process and even though she has "done some business with a couple of your facilities, after an order or two I've been told that they may no longer purchase from me even though my prices, quality and availability are better. . . . The reason I have had any success at all in government is because outside of the bidding process my quality, prices, and availability are always better. . . ." (Written testimony submitted 4/4/07).

A DBE and 8a company, stated they are currently involved in a situation with a municipality in which they were announced as the low bidder but the municipality has since asked them to withdraw their bid allegedly based on minor match errors in the bid (\$32.00 worth). The municipality informed them they were going to closely scrutinize their references. They are waiting to hear from the municipality. (Written testimony submitted 3/26/07).

Interviewee #73, a white male-owned business, has probably bid Caltrans work eight (8) times over the last ten (10) years and was awarded none of the contracts. At this point, he pretty much considers Caltrans bidding to be a waste of time. He said he does not know why he did not receive the bid because he did not get any feedback.

An African American DBE electrical company testified at a public hearing in Oakland that one of the barriers to bidding Caltrans jobs is that "you changed your measurement to metrics ... no body knows how to read those metrics, so they're guessing at it now ... most of your MBE's ... they don't know anything about construction." (P. H. Oakland, 3/27/07).

A few of the interviewees stated that their negative experiences issues were due to the fact the bidding process was cost, time and/or labor intensive. Interviewee #4, a Native American male-owned business, stated that after Caltrans started doing architect and engineering work in-house, the company spent too much time and money bidding and working with other companies to submit bids for work that was no longer available. It is for this reason that the company let its DBE certification expire. Interviewee #4 felt that it was costing the company more than it was worth to continue to submit bids (mainly because of opportunity costs of time and other resources).

Interviewee #14, a white male-owned business, reported that the firms he generally sub-contracts with on Caltrans projects range in size between 2000 and 5000 employees. In his opinion, it is only with that kind of scale that working directly with Caltrans makes sense because the permitting process is so long and burdensome. According to Interviewee #14, contracting with Caltrans takes about 6 months whereas sub-contracting with primes who have already gone through that process is much faster and so cost-effective. It also means that the Company needs fewer people on staff whose sole job is dealing with the contracting process.

In addition, as compared to local agencies, with which the Interviewee #14 has a much better relationship, Caltrans does not design contracts with companies of all sizes in mind. The company is just not big enough to bid on many Caltrans contracts. What ends up happening is that the really big firms come in, bid successfully on the Caltrans contracts, and then break them up into manageable chunks for the mid-size firms like Company.

At the same time, often, Interviewee #14 loses out to the big firms because they will often choose not to subcontract on projects, instead setting up a local office for the job and keeping the work in house. In addition, Interviewee #14 felt that DBE requirements with respect to Caltrans dollars are quite confusing. As evidence, he points to the fact the Company has an employee on staff whose job is to

advise local agencies on compliance with DBE requirements. Thus the local agencies who are trying to comply with the DBE program are often confused as to its requirements and require expert guidance.

Interviewee #15, a white male-owned business, felt that public sector projects in general and Caltrans projects in particular, were substantially more complicated to bid for than private projects. Part of the reason for this are the DBE requirements but there are many others. Basically, public contracts, perhaps of necessity, have a process that must be followed whereas private contracts only require what is necessary on a case by case basis. Interviewee #15 did mention that there were at least some public road contracts that were funded by Caltrans where his firm had decided not to bother with submitting a bid because of the administrative hassle of doing so. He did not feel however that the bid process was confusing or difficult to participate in – just complicated and time consuming.

According to Interviewee #16, a white male-owned business, the company does not really bid with Caltrans. Instead, Caltrans contacts them wanting to use their product (a debris deflector) on its bridges. Caltrans then installs the product itself. Interviewee #16 did note, however, that there is an inflexibility in the Caltrans procurement process. Interviewee #16 stated that his company is a debris deflector provider, and that the product is unique, specialized, and protected by a patent. He said that "because it's not a generic off-the-shelf product, the Caltrans bidding process doesn't allow for any kind of . . . leniency for this kind of thing." Interviewee #16 felt that the Caltrans bidding process favors generic work and is inflexible in the sense that Caltrans is not allowed to be innovative and use products like his company's, which are sole source products, and stated that "from an innovative standpoint there's not a lot of flexibility." Interviewee #16 also felt that the Caltrans process was very paperwork-heavy, saying that California is "probably in the top two [states] . . . in paperwork." Interviewee #16 relayed that it took the company six (6) months to fill out all the necessary paperwork for Caltrans and that "they [Caltrans] just kept popping up more stuff."

Interviewee #17, a white male-owned business, described the Caltrans bidding process as "very laborious," "very difficult," and "very expensive more importantly." According to Interviewee #17, "[i]t's a multi-step process that takes a lot of hours on our part to put together a proposal and there's no benefit because we can't get one of the jobs." Interviewee #17 stated that participating in the Caltrans bidding process essentially "becomes a decision of return on investment" and that his firm has "basically given up."

Interviewee #33, a Hispanic female-owned business, described the Caltrans bidding process as "very tedious" and "time consuming," and she felt that Caltrans "waste[s] a lot of time." She said that firms "spend an awful lot of time and money" going through the request, response, and interview process, but she also said that Caltrans' process was "fairly typical with all public agencies" and that she was "not sure that they do [things] any different[ly] than most public agencies would."

Interviewee #64, a white male-owned business, reports that the jobs that include work in his field just say "road work and traffic signal work." There is no way for him to know how much is traffic signal work and how much is general road work. He tends to stay away from Caltrans because the size of the project is so large that bonding becomes a problem for him. The jobs are listed as \$100,000 to \$499,000, even though maybe only a small portion of the job is actually traffic work. In order to bid this job, he has to tell his bonding company that the job could be \$499,000. He is bonding to \$500,000, so to bid this job he would have to use up all his bonding capacity. He would like Caltrans to separate the work. He would also like the bid to be more precise in their engineers estimate – he

does not understand the disparity between \$100,000 and \$499,000. He is notified through email when there is a Caltrans project. The service is called "CSCR-SOS Newly changed contract opportunities." He does not know any other way of obtaining information about Caltrans projects. The description is not very good. He wishes the scope of work was better described. He gets solicited on all the projects in his area for his type of work because he is one of only two who do this type of work. There are only three main primes in his area.

CATA #3, a Hispanic trade association, stated that when his company tried to go after work as a prime contractor in the early 1990s, he found Caltrans bidding process to be "very frustrating" and difficult to penetrate and/or navigate without any direct experience working for Caltrans. Moreover, said CATA #3, even if you can get short-listed, Caltrans' interviewers are "not receptive" to awarding contracts to new firms with whom they are not familiar. CATA #3 also said that bidding for Caltrans work involves/requires a lot of marketing and that whereas civil engineering firms can do their marketing on the local level, structural engineering firms have to do their marketing in Sacramento. Small businesses, he said, do not have the resources to do the necessary marketing.

Interviewee #43, a Native American male-owned business, cited "not being familiar with the Caltrans bidding process and requirements" as an obstacle to pursuing work. An African American DBE electrical company testified at a public hearing in Oakland that he has not bid a Caltrans project since 2003 "because it costs me money to get these plans." (P. H. Oakland, 3/27/07).

A woman DBE travel agent identified the lengthy certification process as a barrier to bidding on a Caltrans project. Her firm has multiple certifications and she stated: "To participate in a process that only yields another certification with no potential business opportunities is not cost effective for my firm." (Written testimony submitted 04/04/07).'

Several interviewees felt that the bidding process was unfair because Caltrans awards most of the contracts to the same large firms. In hopes of getting more Caltrans work, Interviewee #22 hired a former Caltrans architect in the 1990's who he thought might help the Company achieve better success in winning Caltrans business. The owner believed that part of the reason the company was not having success winning business was because of the complexity of the Caltrans contracting process. He also said that bringing a Caltrans employee with procedural expertise in house did not make any difference in terms of the lack of success winning contracts.

Interviewee #22, an African American male-owned business, reports that he does not go to the expense of attempting to win Caltrans work because he believes there is no point in expending resources on a futile exercise. Interviewee #22 does interact with Caltrans through some of its local agency contracting. When it does so, his experience is that Caltrans is very difficult to deal with.

Interviewee #23, a Asian American male-owned business, feels that the Caltrans bidding process does not favor small or minority owned businesses. He points to the differential success in his gaining other public sector projects relative to Caltrans as evidence for this. He feels that the number one problem with the bidding process is that Caltrans does not reach out to the smaller subcontractors to help them get work. Interviewee #23 also stated that there is a "buddy-buddy" system between Caltrans project managers and the large prime contractors such that it is very hard to break in even if a smaller firm is qualified. Also, "good faith" efforts on the part of prime contractors have not benefited him in any way. Interviewee #23 believed that the outreach program was primarily oriented at finding construction firms rather than professional services firms that were DBEs.

For Interviewee #29, a Hispanic male-owned DBE business, the biggest issue is the incumbency. If the incumbents are most likely going to get the job again, then it is unfair.

As a consultant, the experience Interviewee #50, a white male-owned business, has with the Caltrans bidding process includes responding to an RFP, ten (10) firms get short-listed and then Caltrans awards contracts to firms on a rotating basis from that list. The problem is that most of the time a small firm is not even considered for Caltrans projects because of the size of the projects. He said there is the presumption in both the public and the private sector that only the big firms can handle the big projects. According to Interviewee #50, the reality is that small firms such as his company would assign the same number of engineers to each project as would the larger firm – i.e., a firm with 100 engineers does not put 100 engineers on a single project, but rather two engineers just as he would.

Interviewee #69, a white male-owned business, said in the past he did really bother to bid for Caltrans work because he knows he does not have a chance since those contracts are going to DBEs. Interviewee #69 thinks the bidding process is pretty much focused on DBEs. Interviewee #69 still, however, sometimes looks on the Caltrans' website for bidding opportunities. In the past, Interviewee #69 would get calls from primes for Caltrans work and the first question was whether he has a DBE certification. Once he told them he is not certified, that was the end of the discussion. They did not even ask him for a quote. He said that this is starting to change though, in that the primes are not asking whether he is a DBE, and thus, he is getting more work.

Interviewee #75, a white male-owned business, said that there are less than twenty (20) prime contractors that always get the Caltrans work. These are the companies that can afford to bond the work. The bonding requirements preclude small businesses from obtaining Caltrans work.

Interviewee #82, a white male-owned business, feels that Caltrans tailors their specifications so that there is really only one entity that can meet them. He has lost several contracts simply because he was not able to meet the specifications. So his main complaint with the Caltrans bidding process is that Caltrans is not open to alternative ways of accomplishing the objective. In many instances, he could provide the equipment that would do what Caltrans wanted it to do, but it did not meet the specifications so Caltrans officials wouldn't listen to him.

Interviewee #7, a white female-owned business, relayed experiences of calling around and trying to get on project teams, but only to be told by the prime that the team had already been formed. Interviewee #7 also stated that oftentimes "primes will offer you a contract that you really can't sign" because of clauses regarding liability and indemnification and the like (e.g., a contract that requires a subcontractor to keep working even though there may be a disputed change order).

CATA #10, an Asian American trade association, reports that its members do not bid but rather respond to RFPs and RFQs. He thinks this process is very exclusive because they request specific Caltrans experience or former Caltrans employees. He stated the notice procedure is pretty open and they receive notice on time. The notification send-out does not have a long lead time and it is very short to allow a small firm to team up with a large firm and put a proposal together; "it is too rushed." He stated "we believe" the larger firms know about the project ahead of time because they have more sophisticated business marketing development so that when the smaller firms receive notice and try to team up the larger firms already have their teams.

Interviewee #1, a Native American male-owned DBE/MBE business, stated that it is his perception that Caltrans' bidding process is inclusive. Interviewee #22, an African American male-owned DBE business, is critical of what he perceives as Caltrans' strong bias in favor of very large architectural firms. He repeatedly stated that until Caltrans changes its perspective about the type of architect it wants to hire, Interviewee #22 believes that company has not had success with Caltrans projects, in contrast with other public agencies, because Caltrans' has no interest in the local constituency and has a strong preference for large, internationally prominent firms over smaller local ones. Owner did not feel that the DBE program could possibly overcome the bias against smaller local businesses that Caltrans has.

Adequacy of notification.

CATA #5, a trade association representing subcontractors, does not believe its members are adequately notified of opportunities to bid with Caltrans. Subcontractors are often notified too late of contract opportunities. She suggests Caltrans to hold more forums where subcontractors could learn how to find out about opportunities and understand the process. There is more diversity in the subcontractors utilized in the public sector. She attributes this to the "lowest bidder" preference. The public entity is less concerned with quality and more concerned with price than owners in the private sector.

CATA #12, an African American trade association, described Caltrans' advertising and communication of bid opportunities as "poor" but said that they are "a lot better then they used to be." He said that even though Caltrans publishes its jobs in trade magazines, people still don't know about them. According to CATA #12, the district level is where attention needs to be focused, since if the district offices are exposing opportunities to local businesses, they will know the local businesses and local media and be in a better position to get out the word about Caltrans jobs. CATA #12 emphasized the importance of advertising and outreach efforts like the recent trade shows that Caltrans has done, which he said have been beneficial (because they give businesses opportunities they would not otherwise have and have changed the attitudes of some businesses towards Caltrans). But, he said, not all districts have done these trade shows (even though some said they would).

Interviewee #1, a Native American male-owned business, said he thinks the Caltrans website adequately notifies people of bidding opportunities and he also receives an automatic notification from the California state contract register of opportunities in his area of expertise.

Interviewee #9, a white male-owned business, said that he had "no complaints" regarding notification and advertisement of bids, and that "the process is operating fine . . ." Interviewee #9 relayed also that "its always nice to know about a project ahead of time before it becomes public . . . [,]" and that sometimes he is able to learn about projects before they "hit the streets" so that he is able to "better prepare and position and team before that happens."

Interviewee #15, a white male-owned business, felt that RFP's clearly communicated the bid requirements with respect to DBE's and that very often, the DBE's that he works with were better informed about these requirements. Interviewee #17, a white male-owned business, thought that the Caltrans did "a good job" of advertising and giving notification of bids and RFPs.

Interviewee #26, a white male-owned business, felt that the process whereby Caltrans advertises its contracts is "real good," and that the process for finding out what primes have bid on a project is as

"clear as can be" since Caltrans makes available plan holders lists that show whether a plan holder is bidding as a prime or a sub. He did note, however, that the information available to contractors at the time of the bid "should be better," as most local governments and other government agencies provide a name and phone number for a contact or point person to call with questions, but "with Caltrans you don't know who to call." He also noted that Caltrans requires all questions to be put in writing a minimum of seven (7) days before the bid, and he felt that his requirement was hard on small businesses, who often "don't even get started on a bid" seven (7) days beforehand. Interviewee #26 also suggested that Caltrans add a category to the plan holders lists to show if a contractor bid as both a prime and a sub on a project. Other issues raised by Interviewee #26 are that Caltrans' project plans and specifications do not allow enough working days for small contractors, and that the liquidated damages provisions in Caltrans contracts are too high. Interviewee #26 recommended that Caltrans "give a little more time for work days for completion" and lower the dollar amounts in its liquidated damages provisions. He suggested also that Caltrans could extend the number of allowable working days for small businesses by an extra twenty per cent (20%), so as to "help people to be able to compete against the big guys."

In terms of notice, communication of opportunities, advertising, solicitation of bids or RFP with relation to the Caltrans projects, Interviewee #29, a Hispanic male-owned business, feels that Caltrans does an "excellent job" and adequately notifies him of opportunities.

Interviewee #32, an Asian American female-owned business, felt that she was well informed of opportunities to bid on Caltrans work and stated that she usually found out about Caltrans jobs because its solicitations are published on the Department of General Services' website. However, Interviewee #32 stated that she "usually do[es]n't go after Caltrans [jobs]" because of "the perception that Caltrans is a pretty . . . tough barrier to penetrate." She said that it is part of her business plan to go after Caltrans work because she thinks they would be "a very, very good client to work with[]" but that doing Caltrans work is "not a priority at this time" because she thinks that "it's going to take a lot more getting to know key players . . ." than is required in order to get work with other public agencies.

Interviewee #40, a white male-owned business, stated that the company gets the same bid advertisements as all the other contractors and that it's a fair process. Most of the information is online, but Interviewee #40 doesn't directly deal with the notices – the company has someone who prepares the bids (most of this is done online). Most of the primes involved in the various projects are easily recognized by Interviewee #40, so there is no problem knowing which primes are going to bid for a particular project. According to Interviewee #40, the only time you cannot bid for Caltrans is if you are excluded for a safety violation or if you withdrew a bid and had someone else complete the work, or if you are not qualified or licensed as far as the project specs. Interviewee #40 said the process is easier without the DBE requirements – the whole thing used to be much more complicated (DVBE process is even more complicated).

Interviewee #47, a white male-owned business, feels that Caltrans adequately notifies them of bid opportunities. Caltrans, in each district office, has monthly meetings that are open to consultants where they talk about what the district is doing and you can find out about upcoming projects at these meetings. Caltrans also lists opportunities on their website. They are on an "on-call" list. You have to submit your statement of qualifications to become a selected consultant for each of the contracts that come.

Interviewee #50, a white male-owned business, does not feel he is given adequate notice of Caltrans bidding opportunities. There have been several times that he received something in the mail regarding a bidding opportunity that had already occurred or that was scheduled for the same day. Mailings are the primary way in which he hears about Caltrans projects. He's not on the email list, although he is for the City of Los Angeles. He is contacted by developers regarding bidding opportunities. Interviewee #50 reported he feels Caltrans bidding process is inclusive of both DBEs and non-DBEs.

Interviewee #56, a white male-owned business, notes that the Caltrans bidding process is competitive, but it's fair. He stated that there are always things to take advantage of in the bidding process. According to Interviewee #56, Caltrans advertises in local trade papers, but if you're bidding work, then you're going to go through your local bidding exchange. Sometimes you are notified by phone, in which case you are also usually asked if you are a minority or if you are a disadvantaged business. "In most cases all primes are advertising the same jobs to the same people – for the same purposes. It's routine"

Interviewee #49, an African American male-owned business, said that it had been two or three years since he had bid work with Caltrans but that Caltrans did a good job of advertising their work and that it was "easy to find out about those [Caltrans] jobs." He stated that he usually found out about Caltrans jobs through the green sheet (a trade industry circular/paper). He stated also that he had never been denied the opportunity to bid Caltrans work, and that he "d[id] not really have a problem with it."

Interviewee #73, a white male-owned business, feels he is given adequate notice of Caltrans bidding opportunities. His clients call him and solicit bids.

Interviewee #75, a white male-owned business, feels bids are satisfactorily communicated. He learns about them through various publications and the Caltrans' website. He feels the bidding process is pretty inclusive of both DBEs and non-DBEs. He is not aware of any efforts by Caltrans to streamline the bidding process, but does not feel there is in fact any way to do so. As a subcontractor, he contacts primes regarding bidding opportunities and primes also contact him. He feels Caltrans bidding process could be improved if more projects did not require bonding and that this would permit more small businesses to participate.

Interviewee #76, a white male-owned business, finds the Caltrans bidding process to be satisfactory. Caltrans does a good job of advertising bidding opportunities through Caltrans' website, Greensheet and e-bid board. He believes he is aware of 99% of Caltrans bidding opportunities, and that notice of bidding opportunities is inclusive of both DBEs and non-DBEs. He usually contacts primes regarding bids, although he does have 3-4 primes that contact him on a regular basis for bids. Interviewee #76 reports that his one complaint is that Caltrans sometimes has too many bidding opportunities scheduled for a single day.

Interviewee #82, a white male-owned business, feels he is given adequate notice of Caltrans bidding opportunities. He believes the bidding opportunities are inclusive of both DBEs and non-DBEs and notes that it seems like he was always being asked if he was qualified as a DBE. Interviewee #82 reports that when he was active, primes asked him to submit price quotes more than half of the time.

According to CATA #2, an African American trade association, Caltrans jobs were better advertised in the pre-computer era, when there was more faxing and advertising in trade papers and community and 'ethnic' newspapers. He noted that a lot of African American small businesses still do not have readily available computer access and/or savvy. CATA #2 said that Caltrans does a good job of advertising in Oakland and the Bay Area because the community there demands it, and that if Caltrans replicated these efforts and practices in other areas, things would be okay. CATA #2 also said that the Caltrans bidding process needs to be more accessible. He recommended that Caltrans put more plan rooms in the inner city and/or where DBE firms tend to be located, and that Caltrans engage in more networking with trade groups on a local basis, in order to help firms get certified (because, he said, many African American owned businesses see no need to do so in the post-2009 era) and to let firms know what the agency is doing.

According to CATA #3, a Hispanic engineering trade association, Caltrans does not adequately advertise and communicate its work opportunities. He said that Caltrans does most of its advertising on the web, and that though large firms have marketing departments and/or inside information on jobs, small businesses do not have the time, staff, and/or resources to be on the internet all the time searching for jobs. He also said that he had suggested to Caltrans that the agency needs to provide notification (via mail, fax, and/or electronic means) of jobs to whoever wants to be notified and registers with Caltrans for this purpose.

CATA #3 stated that other agencies (including the Metropolitan Transit Authority) provide firms with 6-month look-aheads of their upcoming jobs, but said that because a lot of times teams are already formed by the time Caltrans puts out requests for proposals (RFPs), small businesses usually wind up trying to get on project teams to work as subcontractors. This, said CATA #3, is why it is so important for small businesses and DBE firms to get a first chance to work with prime contractors, so that they can demonstrate their qualifications to the prime and get a working relationship going.

CATA #6, a trade association representing heavy engineering contractors, reported that members are adequately notified. They can check the Caltrans website. EUSA also provides notices of upcoming Caltrans projects. They receive a list from Caltrans including all different projects. There are several factors that affect the bidding process. First, bureaucracy. "Any kind of additional red tape ... makes the bid price go up, good faith effort is one of them, meeting certain ... Storm Water Pollution Prevention Program requirements is another one." "If they know who the resident engineering is for the project that their bidding on the bid price will go up and down depending on who they think that person is going to be." If they think they will be treated fairly, the bid price will go down. Other aspects that affect the price: location, their ability to get materials for nearby sources, whether or not they feel comfortable with the work, whether they think the project was designed well, whether they think material prices will increase. If a project isn't designed well, a lot of times the primes will submit a bid inquiry. A lot of times Caltrans will say "bid it as you see it." This means according to CATA #6, they either feel the bid documents are clear or they know they screwed up and they need to fix it. When Caltrans responds to a bid inquiry the question and answer is posted on the Caltrans website for everyone to read.

CATA #7, a Filipino trade association, reports that Caltrans does a good job about getting the word out about bidding opportunities. Some districts are more aggressive than others in encouraging DBE participation. Primes send DBEs faxes notifying them of opportunities in order to comply with their good faith efforts. In his opinion, these are not genuine requests. He knows of a member who's bid

was used and the prime won the job but never called him. The member did not follow up. He chose to move on and pursue work in the private sector.

Interviewee #7, a white female-owned business, felt that Caltrans work was "well advertised" and that there was adequate notification of bid opportunities. She did indicate, however, that the Caltrans bidding process perhaps placed too much emphasis on companies' size when deciding to whom it should award contracts, and Interviewee #7 noted that Caltrans uses a different computer system for its CAD than the system the company uses for its non-Caltrans work.

CATA #9, an association of consulting, engineering, and land surveying firms, said that Caltrans provides notice of RFQ opportunities on the website and the notifications are officially posted two (2) to three (3) weeks from the submittal date. There is also a pre-announcement – "contract look-ahead" – "but that typically that isn't very accurate." He said approximately one-fourth of the contract look-ahead notices have been posted for six (6) months that they would be coming out, but they haven't come out; others are only posted for one (1) week before the actual posting comes out.

CATA #9 reports that "some of the issues with it are: . . . if you are a subconsultant, you have no idea who the primes are unless you figure it out on your own. There's no bidder's list that tells you who's a prime and who's a sub and who's actually going to submit on it. So it makes teaming very difficult. And they're on call contracts so the qualifications required are very vague and fairly generic." They may have specific contract lists but they will not have specific roles under this contract and this makes it hard to go after it unless you are able to cover every possible task that may come up under the contract. Once the SOQs are submitted, there is about a week or two turnaround time for the short-listing. Unless you are on the team that is short-listed, you will not know that, and will only hear once the contract is awarded to someone else. That is another problem.

CATA #9 does not think that the process adequately notifies businesses of opportunities with Caltrans. Their contract look-ahead needs to be more accurate, which Caltrans is able to do because they have all of the information available to them. "I really think they need to have some sort of pre-submittal meeting so the subconsultants – the DBEs, SBEs, DVBes, all those type of firms – can see who the potential primes are, meet them, and get a chance to sell themselves to those primes." He stated there is no other way to find out which prime contractors have expressed interest in an RFQ. A lot of times, based on the contract look-ahead, the prime contractors will already have their teams all set. Nevertheless, CATA #9 has no knowledge of his members ever being denied the opportunity to respond to an RFQ.

Interviewee #13, a Pakistani male-owned DBE firm, did not think that there were any problems with learning from Caltrans or others what projects are available for bidding. He felt that bid opportunities were well advertised and easy to find. Interviewee #13 stated: "I'm pretty aware of when the project's coming out, I'm pretty aware when I fax [a bid submission], and I'm pretty aware when I lost it." Interviewee #13 stated also that generally, by the time he finds out about a project, "it's too late" to try to team up with the primes who are bidding the project because they have already formed their teams. He likened the Caltrans bidding process to that for contracts in Iraq that are awarded to Haliburton even though they are technically open for others to bid on. Interviewee #13 did not specifically experience where he was denied the opportunity to bid or submit a price quote on a Caltrans project.

Interviewee #60, an Asian American male-owned business, has not submitted any bids for Caltrans work, but he has created a list of the work that they have emailed him, and he wants to try to bid for some of the projects. Interviewee #60 notes that the projects he receives communications about are very large, so he tries to team up with companies as a subcontractor, but he is often turned down because teams have DBE subcontractors already. Interviewee #60 stated that he knows the Caltrans process, and that he is going to begin submitting his own bids for the work. Interviewee #60 said he always sees the same faces, and there is no one new that is being used. Although Interviewee #60 notes that there is no way to know what primes have expressed an interest in a particular RFP, he stated that this would be helpful. As of right now, he does not know where to go, so he just starts calling people – both for Caltrans and for non-Caltrans public sector work. Interviewee #60 stated that the Caltrans bidding process is good, but he recommends that smaller and newer subcontractors have priority for the teams that are being put together. Smaller DBEs lack the financial resources to make it on their own, and he stated that prime contractors need companies like him anyway; he wants to be given the chance to "submit the introduction." There needs to be "equal opportunity to all the little compan[ies] to grow to survive and grow."

Interviewee #62, a white male-owned business, reported that he is adequately notified of opportunities to bid with Caltrans.

Interviewee #85, a white male-owned business, does not believe he is adequately notified of projects for Caltrans. He needs to know about projects before they are awarded so he can go to the prime and offer his supplies. They had hoped that certification as an SBE would have led to more notification of projects. They got a call from a prime in Berkley for a Caltrans project even though the prime knew they would not be able to service the job from Sacramento. The job said you had to have a small business bid on your work and that is why the prime called. "He knew we couldn't supply ithe wanted to hire his good ole' boys but in order to get the job he had so solicit a couple small businesses." This has happened before where companies call them where there is no way they could deliver that far. They have not received a call like this for a Caltrans project in Sacramento. He believe one of the incentives for using SBEs or DBEs is that the prime gets a premium. He thinks Caltrans should give these primes lists of SBEs and DBEs and tell them about this program.

CATA #4, an Asian American trade association, feels that firms are adequately notified of opportunities to bid with Caltrans and noted that Caltrans projects are posted on the Caltrans website. Nonetheless, CATA #4 feels that Caltrans is more communicative with the larger firms and their trade associations, such as CELSOC (which CATA #4 describes as nine per cent (90%) white).

A women owned DBE stated, "The biggest difficulty is that we do not consistently have visibility into opportunities to bid. We are on the CCR SOS distribution and I rarely, if ever see bid opp[ortunities] for this area." (Written testimony submitted 3/14/07).

Methods of Notification of Bid Opportunities

Interviewees reported various ways by which they receive notification of Caltrans opportunities. Interviewee #1, a Native American male-owned business, stated he looks "all the time" to see what projects are listed on the California state contract register. He said the Caltrans contracts are advertised state-wide but he "never" wins those because they are awarded to the lowest bidder in the state. He stated that he bids on some projects but he does not bid on Caltrans projects.

Interviewee #2, an African American male-owned business, stated that in the past, he had received mailings from Caltrans with respect to bidding opportunities but that he had ceased to receive these. Owner stated that he found these mailings helpful. He does not utilize, nor did he seem to be aware of, the Caltrans website. Almost all of his work comes from primes approaching him to do work on projects rather than his submitting bids to primes working on either public or private projects.

Interviewee #8, a Hispanic male-owned business, said that the company finds out about jobs through the green papers and other "publications and other things that [they] pay for." He felt that the system by which subcontractors can find out what prime contractors have expressed interest in a job so that the subs can seek out the primes to bid "works pretty good."

Interviewee #10, an African American male-owned business, stated that Caltrans bids were generally well-advertised and that his company receives invitations in the mail and faxes, and that he sometimes finds out about jobs by looking in the paper. Interviewee #10 also stated that Caltrans sends out lists of all the prime contractors bidding on a particular contract, and that he can find out this way which primes are interested in particular contracts.

Interviewee #27, an African American male-owned firm, felt that Caltrans did an adequate job of notifying business of and advertising its bids. Interviewee #27 stated that the company receives notification of and solicitation for bids through its website and through a builders' association of which he is a member, and that prime contractors send paper quotes.

Interviewee #31, an African American female-owned business, said because Caltrans does not put out RFPs that specifically identify dry utilities as the primary focus, the company's experience with Caltrans' bidding process is as a subcontractor. He noted that prime contractors are supposed to pursue utilizing DBE firms on these contracts but stated that this "very seldom happens." Regarding the advertising of Caltrans jobs, Interviewee #31 stated that in the past Caltrans would send out notices of projects to WBE firms and DBE firms but that Caltrans "stopped that long ago." He said that the company has a process for going after public sector projects and for researching RFPs and requesting a planholders' list so that they can identify the primes who are bidding on a project. However, said Interviewee #31, after the company contacts these primes and explains and offers its services, "[s]ome accept, [but] most do not." He attributed this situation to "Caltrans' lack of any type of enforcement of utilization, not only of the type of work [the company does] . . . but also for using M/WBEs."

Most of the solicitations Interviewee #35, a female-owned business, receives come from professional contacts. They find out about Caltrans projects when the primes notify them by requesting a bid. They also receive notices through an email subscription that tells them about public sector jobs. They also search websites of various public entities. They rely more on the primes to contact them than finding work.

Interviewee #39, a Hispanic male-owned business, stated that before the DBE program was suspended, the company would often find out about jobs when prime contractors contacted them asking for bids. Now, however, since the frequency with which they were contacted by primes has gone down, Interviewee #39 said that "[t]here's more of us looking to try and find the jobs as opposed to the other way around." He said that the company often uses the Green Sheet, where Caltrans jobs are usually advertised, and also "tr[ies] to contact people [they] think are bidding." The

company also uses the Green Sheet to try to figure out what prime contractors are or will be bidding on a particular job.

Interviewee #45, a white male-owned business, stated they go to the internet every Monday morning and check the new plans and specs that are available. He stated this information used to be in the paper but the paper is an "ancient type affair." He stated they have improved the process and they will have the plans and specs two days after ordering them. He stated that the system is open to anyone that wants to understand the system but you have to understand the system and know where to go. He stated he has been living the process for twenty-one (21) years and if they (Caltrans) makes a change they just adjust. He stated the process adequately notifies sub-contractors but "there are only a few subcontractors that play in the game." One problem Caltrans will have forthcoming is that "the [subs] are anticipating all this work to come out which still hasn't come out and the subs will stop bidding when they get a full plate."

Interviewee #45 further stated that Caltrans does a lot of outreach. He stated that bidding information is also advertised in the green sheet that tells you all the facts and details. Interviewee #45 stated that after his business gets the plans and specs they will list themselves in the paper [the green sheet] and say they are bidding on a contract and need subcontractors. He stated they pay \$5000 per year to advertise in the green sheet.

Interviewee #46, an Asian American male-owned business, reported that the company generally finds out about Caltrans jobs upon being contacted by prime contractors asking them to bid. Usually, Interviewee #46 said, the company does not receive anything directly from Caltrans notifying them about Caltrans jobs. The company does subscribe to various industry publications that let firms know about Caltrans jobs, and Interviewee #46 said that when the company sees a job for which it wants to bid, it calls to the prime contractors whom it knows and with whom it has worked to see about teaming up with them.

Interviewee #51, a Hispanic male-owned business, stated that the advertising for Caltrans work is now "a lot different than it was several years back." He said that advertising used to be done primarily in the green sheet (the daily construction magazine or trade industry paper) but that now firms go online to "get pretty much the advertising of all agencies." Interviewee #51 did not know if Caltrans sends out advertisements and/or flyers to contractors that continuously bid Caltrans work, but he said that his company has to search for Caltrans jobs and that it has employees whose job it is to search out work opportunities with Caltrans and other public agencies. When the company sees a job for which it is qualified to bid, the company "pull[s] the plans and then send[s] a sub bid out to the primes." Interviewee #51 said that the company finds out what primes are bidding on a project by looking at the planholders list and through suppliers who notify them of jobs (and who know of the jobs because they themselves are looking around for contracts on which they can supply their materials). Interviewee #52, a white male-owned business, said that he knew that the work was on the internet and how to get to it – and that he could find it were he looking for it.

Interviewee #59, an African American male-owned business, subscribes to a RFP service by phone, so he gets advance notification of bids, and he also used to do work with a big firm. He has general knowledge of what primes express interest in a particular proposal because he has a good relationship with some of the firms in the construction side of the business. Interviewee #59 thinks that the way in which Caltrans' project files are distributed is not user friendly – he would like to see the project documents in an easy format to download online. The drawings that he needs to complete bids are

often in smaller, individuals files that make it more difficult for small firms to use. Interviewee #59 also wants Caltrans to carve out more work for smaller businesses, and thinks the DBE program is useful and that Caltrans needs to continue the program. Interviewee #59 thinks the fact he is not receiving invitations to bid anymore pretty much shows that the DBE program was working.

Interviewee #61, a Asian American male-owned business, notes that the Caltrans bidding process is self-explanatory, easy, inclusive, and Caltrans makes it known that there are opportunities available by postcard or on the Caltrans website. Interviewee #61 notes that there is no way to know what primes have expressed an interest in a particular RFP until the pre-proposal meetings. Interviewee #61 notes that even then it's not definite whether primes are going to bid or not, so her company contacts each and every possible prime to market its services. According to Interviewee #61, receiving a list would alleviate this hassle. Interviewee #61 feels the company has been denied the opportunity to bid for Caltrans work because Caltrans has already picked different primes or groups. Interviewee #61 does not make this observation about other work, recommends providing a list of primes that are submitting for each project.

Interviewee #67, a white female-owned business, stated that Caltrans did not notify her company about its jobs and that she did not know why they do not do so. According to Interviewee #67, the company receives on a weekly basis notices from the Metropolitan Water District (MWD) and through a "Network" system existing for work at the Los Angeles airport and in the Los Angeles and San Diego areas. She said that the company is frequently contacted by prime contractors asking for bids on MWD contracts but that, though it receives notices from Caltrans about meetings for DBE firms, the company receives no requests from primes requesting bids on Caltrans work. Interviewee #67 said that though she had not been denied the opportunity to bid work with Caltrans, she had maybe been denied access.

Interviewee #68, a white male-owned business, said that the company, when it bids on Caltrans work, bids as a subcontractor to engineering firms. He said that he had never been made aware of any job opportunities by Caltrans, but instead had always learned of Caltrans jobs through other people. Interviewee #68 also said that the company gets most of its business by word of mouth, and that most primes for whom the company subcontracts already know him and want to work with his firm. Interviewee #68 did not know of a way to find out what primes had expressed interest in a particular project so that he could then contact and submit a bid to them, and he stated that he had never experienced being denied the opportunity to bid Caltrans work. Interviewee #68 recommended that Caltrans could improve its bidding process by making it more obvious that projects are coming up and by providing a way for firms to sign up on an RFP list.

Interviewee #81, a Hispanic male-owned business, reports that he finds out about Caltrans bidding opportunities through primes contacting him requesting a bid. He never contacts primes regarding bidding opportunities. He said there has been many instances in which he has been called by prime contractors asking for a bid, but he knows it's just to satisfy their good-faith efforts to utilize a DBE. When he first started his business, he would take the time to respond to these calls and actually submit a bid. However, several times after submitting a bid he would call to check the status, and he was told that they had everything covered. That happened so often that he stopped responding to random primes asking him for a bid. These primes just wanted him to submit a bid so they could tell Caltrans that they made an effort. Interviewee #81 feels that the so-called "good-faith efforts" are a sham.

CATA #1, an Asian trade association, said that Caltrans has a good system for advertising on its website, but that some smaller DBE firms do not have the time and/or experience to go on the internet. Thus, Caltrans' going paperless has caused problems for firms that are not as internet-savvy as others. He said that his Association had raised this issue with Caltrans. CATA #1 stated that Caltrans used to advertise its jobs via facsimile through a "blast fax" system, and he suggested that Caltrans implement an "e-blast" system to alert certified DBEs of jobs, bids, etc., and to provide links the same.

Interviewee #13, a Pakistani male-owned business, stated that his business "regularly" gets faxes from prime contractors asking his company to show interest in being part of project teams where there is a DBE requirement, but that his firm "seldom become[s] part of the team." Interviewee #13 stated further that it was his observation that big prime contractors send faxes and emails to the firms on the Caltrans DBE list because they are supposed to, but that these primes already have established DBE firms in their network that they plan to use for the project anyway. As a result, according to Interviewee #13, the businesses who received DBE certification before his firm did "virtually have no leg work to do" because the big prime contractors are going to use them anyway.

Interviewee #41, a white male-owned business, reported that they hear of a lot of public sector projects through word of mouth. Audits and on-site visits weigh heavily on whether environmental testing facilities receive the work.

Interviewee #58, a white female-owned business, recently submitted a Caltrans proposal, and indicated that they receive a number of email notifications and receive hard copies of project notifications. They have also attempted to get on teams for Caltrans work, and their recent attempt was for a subcontractor position for a Northern California project. Interviewee #58 indicates she was adequately notified of the opportunities. Interviewee #58 also notes that she received a list of primes that expressed an interest in the particular RFP for which the company submitted a bid, and that they had to request that information. The company was able to take that information and then contact the individual primes to see if they wanted Interviewee #58's company on their bid teams. Interviewee #58 reported that Caltrans holds pre-proposal and pre-bid meetings so that you can meet people and generally put your name on lists to show that you are interested. Sometimes companies will contact Interviewee #58's firm off of a bid list because of the company's status as certified firm.

Interviewee #24, a white female-owned firm, lives in a small northern California town and would like Caltrans to post notices at the local post office and in the local paper. She generally learns about jobs by word of mouth. She has never visited the website.

Knowledge of primes interest in bid.

Interviewee #1, a Native American male-owned business, stated that he would "like to figure out" how to connect with a prime contractor before they submit a bid because working as a subcontractor is an area in which he can grow. He stated that the prime contractors appear to already have their team in line before they submit a bid; this is an area that he would like to work on.

Interviewee #9, a white female-owned business, stated that there are no problems finding out about what primes have expressed an interest in a particular RFP, since there are usually plan-holders and pre-proposal meetings (for which subcontractors can get the sign-in sheets).

Interviewee #27, an African American male-owned business, also indicated that he did not have any problems finding out what prime contractors were bidding on Caltrans jobs, since "they ship [him] quotes and [the company] pretty well know[s] what's going on."

Interviewee #32, an Asian American female-owned business, did not know if there was a way to know what primes had expressed interest in a particular RFP so that subs could contact those primes about submitting price quotes.

Interviewee #33, a Hispanic female-owned business, felt that there is adequate notification and advertisement of Caltrans' projects. She stated that she usually finds out about Caltrans jobs through subscriptions services that the company uses to find RFPs. She felt that Caltrans could do a better job of providing a way for subcontractors to know what primes have expressed interest in particular projects because, according to her, "a lot of times [she] do[es]n't know who's out there . . . and before you know, the team's already selected."

Interviewee #34, a white male-owned business, said that it was hard for him to address questions regarding Caltrans' bidding process, since the company has "a number of people" in its business development staff whose "whole job . . . is to keep abreast of those types of opportunities." He did note that he usually knows about RFPs "right away," sometimes by virtue of fellow consultants or persons at various government entities with whom he interacts, and said that sometimes he "hear[s] rumors about RFPs even before they come out."

Interviewee #57, an Asian American male-owned business, is not often involved in the bidding process. While Interviewee #57 stated that he has adequate notice of opportunities with Caltrans, mostly the primes from the teams submitting actually make the bids public. According to Interviewee #57, there is no way to know what primes express interest in a particular RFP. Interviewee #57 recommends that it would be good if DBEs could actually express a direct interest to Caltrans, and then Caltrans could make that list public; that way, at least primes would know which subcontractors (DBEs) were available for particular projects.

CATA #3, a Hispanic trade association, reported that the only way to find out what primes were going to be bidding on a particular job was to do cold calling and marketing, and that this was done only after a contract was made public (which may be after some prime contractors have already found out about the project and formed their teams). Thus, he said, it all comes down to knowing and having good working relationships with the prime contractors who get Caltrans work. But, according to CATA #3, some of the larger prime contractors cut back on their outreach staff after Proposition 209 passed. He said that in the 1990s (before 209 passed) Caltrans used to do pre-bid meetings that worked well but that companies are now less prone to do outreach to DBE firms because they see no need to do so. In a recent meeting said CATA #3, he was told by someone from a big firm that that firm was hesitant to help small businesses get work because these are, after all, the big firm's competitors. Another issue identified by CATA #3 is that corporations are less attuned to community needs than they were 10 or 20 years ago because now they are focused more on profits.

Interviewee #7, a white female-owned business, indicated that the bidding for Caltrans contracts has become more competitive over the last fifteen (15) years. Interviewee #7 also indicated that it is difficult to find out what primes have expressed interest in a particular job. Though an engineering firm can sign up for plans on the Caltrans website, there is, according to Interviewee #7, no way to

find out what primes have downloaded a particular solicitation. Instead, said Interviewee #7, "you have to randomly call based on your best guess of who is going after [a particular job]."

Denials of bids/price quote submission opportunities.

Most interviewees stated that they had never been denied the opportunity to submit a bid or price quote. According to Interviewee #8, a Hispanic male-owned firm, the only time that he was denied the opportunity to bid on a Caltrans job was when his firm was not awarded a job because a DVBE subcontractor whose bid the firm used was not actually certified by Caltrans to do the work items for which it bid.

Interviewee #26, a white male-owned business, stated that the only times that he has been denied the opportunity to submit a bid on Caltrans work have been situations where the requirements for bonding were too high, or where he felt that the liquidated damages provisions were excessive.

Interviewee #31, an African American female-owned firm, indicated that he had never experienced being denied the opportunity to submit a price quote for Caltrans work because, he said, "[t]hey normally don't go that far[.]" since "if you are not selected to be on a team, and the team is not selected, then you will not get to the point where you can provide a fee proposal."

Interviewee #33, a Hispanic female-owned business, stated that she had never been denied the opportunity to submit a price quote for Caltrans work. She did relay an experience back in 2005 where she felt a Caltrans auditor unfairly and improperly calculated her hourly rate, and she suggested that Caltrans could improve its bidding process by accounting for the fact that firms bidding on Caltrans work sometimes need to give their employees raises.

Interviewee #39, a Hispanic male-owned business, felt that the company had been denied the opportunity to bid "a couple of times" by a local city that had suspended its DBE requirement, and he said that he would "like to see the DBE [program] put back in place" and that it "would sure[ly] be helpful" if this were done. He suggested that Caltrans should continue to advertise its jobs in the Green Sheet and also suggested that Caltrans could improve its bidding process by providing companies with email notifications (e.g., through a listserv) of available and upcoming jobs.

Interviewee #45, a white male-owned business, stated he has never been denied the opportunity to bid with Caltrans although some of the agencies demand mandatory pre-bids and if you didn't know about a job and pre-bid then you can't bid. As far as recommendations, he stated he understands from a meeting in Sacramento that Caltrans is going to eliminate paper bids and he is against that and thinks they should bid "the old long hand way."

Interviewee #58, a white female-owned business, notes that the company has been denied the opportunity to bid on both private and public projects, but stated that experience is not specific to Caltrans. The company has attempted to be added to Caltrans teams, but sometimes Interviewee #58 is denied the opportunity.

Recommendations related to the bid process.

Several interviewees offered recommendations related to the bidding process. Interviewee #1, a Native American male-owned firm, stated he would really like to know which prime contractors are bidding on a particular project. "I think it would be great if they would list the people who asked for

a bid package. . . . [T]hat would give me an opportunity to contact them and offer to work with them as a subcontractor."

Interviewee #2, an African American male-owned business, stated that he felt "unequivocally" that the biggest problem with securing Caltrans work was that the agency failed to segment projects, or to force prime contractors to segment projects, into small enough pieces for small and minority owned businesses to compete for them. In the owner's view, "you have to crawl before you walk" and so it was unreasonable for Caltrans to expect a qualifying DBE or MBE to be able to handle the scale of projects that are offered. Greater segmentation of projects, along with more rapid payment, were the Owner's greatest criticisms of the Caltrans process and the major reasons why he did not do more work for the agency.

Interviewee #5, a white female-owned firm, stated that Caltrans' plan specifications are poor and contain a lot of errors. He recommended that Caltrans put cross-sections in the original plans. Interviewee #5 noted that Caltrans has automatic start dates and suggested that Caltrans start using flexible dates (so as to account for permitting, material shortages, and other things). Interviewee #5 also stated that Caltrans' specifications are "not in tune with the real market," meaning that contractors cannot build projects like Caltrans says they should. Interviewee #5 suggested that Caltrans should get its engineers to estimate their costs like contractors do, because the Caltrans engineers use outdated numbers.

Interviewee #8, a Hispanic male-owned business, suggested that Caltrans could improve its bidding process by making it easier to navigate through and find out about jobs and posted opportunities on its website, and by making its jobs "more attainable for smaller companies."

Interviewee #17, a white male-owned business, felt that Caltrans bidding process needs to be streamlined (because it is too laborious) and that the problem with the Caltrans bidding process lies with who picks the winning bid and how it is chosen. He stated that Caltrans should not award contracts based only on price but should also consider the level of skill, expertise, etc. offered. He stated, however, that perhaps his company cannot get work for Caltrans because Caltrans "hadn't used us before and they don't want to try us, or something . . . [,]" and that "there's no way for a new firm or even an old firm like ours . . . to get in unless you keep spending and keep spending and eventually get in." According to Interviewee #17, "[t]here's got to be a better way. There's got to be some diversity in giving the same guy the same work every time over and over and over again. That to me just says that there's some kind of backroom deal going on to me."

Asked what recommendations he could offer for Caltrans to improve its bidding process, Interviewee #31, an African American female-owned business, responded that "[i]f [Caltrans] are not telling their primes that they need to utilize WMBEs and they are serious about it, it is not going to happen." Interviewee #31 said that, in addition, Caltrans "ought to be clear about enforcing who does the work on the different projects[,]" so that the available work is matched with firms that can do it. Interviewee #31 told the story of a Caltrans project for which his company bid in 2002 and for which there was a DBE goal of 17% that went unmet. According to Interviewee #31, the work that his company normally would do was not listed, thus allowing the prime contractor to ignore the company – both as a specialty firm and a DBE firm – and submit its own firm as doing all the work.

Interviewee #32, an Asian American female-owned business, suggested that Caltrans could improve its bidding process by doing small business outreach and other such symposia to open up and provide opportunities to new businesses, including DBEs and women-owned firms.

Interviewee #34, a white male-owned business, suggested that Caltrans could improve its bidding process by doing a better job of estimating costs. According to Interviewee #34, this issue is something that he has discussed with Caltrans' employees and something that they acknowledge is a problem, and the people at Caltrans who evaluate the bids of consultants are not trained on how to do so.

Interviewee #46, an Asian American male-owned business, felt that Caltrans' drawings are "usually good and self-explanatory" and that Caltrans had always been "more than fair." He did recommend, however, that Caltrans switch back to its old practice and quit using the metric system. With respect to Caltrans bidding, Interviewee #46 stated "the bidding process is not their problem. Inspection and finishing is their problem."

Interviewee #50, a white male-owned business, thinks the bidding process should be returned to the way in which it used to be run; to wit, where the winning bid was chosen based on qualifications, rather than cost-driven. The lowest cost is not always the right person for the job.

Interviewee #51, a Hispanic male-owned business, recommends for improving Caltrans' bidding process was for Caltrans to do a better job of outreach. Interviewee #51 said that "all agencies that are tax dollar dependent – whether they are small cities, the counties, the state of California – need to do a better outreach program than they are doing to disadvantaged businesses or minority-owned businesses . . . particularly those that are breaking into the construction industry . . . and let them know they are welcome to participate. He said that "primes are not meeting the [DBE] requirements because there are not enough businesses out there, DBEs that may know or be informed about the project or even have the desire to try to want to bid something like that because they may not necessarily have the experience of bidding the work but know how to do the work." He also said that a good outreach program is something "that all the agencies are lacking."

Interviewee #56, a white male-owned business, thinks that Caltrans should use a small business classification to determine preferences given by the State. He also thinks that there should be a local preference where jobs are being performed and where tax dollars are being spent. Interviewee #56 has not received local jobs that he thinks he should have received, but for DBE preferences.

Interviewee #81, a Hispanic male-owned business, recommends for improving the bidding process that Caltrans address the "fake" good-faith efforts. Also, Caltrans needs to find ways to open up the bidding opportunities to others beyond the big companies. Interviewee #81 feels that DBE utilization should be mandatory, not the subject of "goals." Otherwise, the entire DBE program simply wastes everyone's time because it's so easy to falsify your good-faith efforts. There are DBEs out there that, if they were included in bidding opportunities, would make the process more competitive and even increase the quality of work. He knows of a non-DBE company that utilized a DBE for the purpose of meeting Caltrans' requirements, and it ended up having a great experience with this DBE. Interviewee #81 feels that the DBE program is an important part of Caltrans because DBEs are smaller companies and thus less well-known. Given that they are less well-known, they have fewer opportunities to prove the quality of their work. Without the DBE program, it's too hard for small

businesses to infiltrate the industry's inner circle of companies that partner up with each other every time.

CATA #3, a Hispanic trade association, said that Caltrans should help small firms with the bidding process and suggested that Caltrans offer workshops on how to do business with Caltrans where small business owners and representatives can meet the persons at Caltrans who will be reviewing their bids and learn more about how the process works. He said that he did not remember him or anyone else ever bringing this idea to Caltrans, but that he has not been as active as he used to be, as he did more advocacy work when his company had a bigger staff but now focuses more on his business.

CATA #3 recommended that, in addition to doing better outreach and advertising, Caltrans could improve its bidding process by sponsoring quarterly mixers where representatives from large contractors and small businesses were given a look-ahead at the Caltrans work coming through the pipeline. He also said that Caltrans needs to sensitize its reviewers to the various issues facing DBE firms and small businesses and recommended that Caltrans set up a committee of small business and DBE representatives to review Caltrans' RFPs and identify barriers, so that that Caltrans can try to eliminate and/or alleviate these barriers.

As for how Caltrans could improve its bidding process, Interviewee #7, a white female-owned business, suggested that Caltrans could set up an on-call list and then rotate the awarding of projects based on this list and how well different firms perform on their jobs. Interviewee #7 relayed an experience of Caltrans taking back (to do in-house) drafting work that it had contracted out to their firm and suggested that Caltrans could be more consistent in what work it does and does not contract out.

As for how Caltrans could improve its bidding process, Interviewee #13, a Pakistani male-owned business, suggested that Caltrans implement some kind of requirement so that prime contractors have to rotate the DBEs that they use – i.e., a system under which prime contractors cannot use the same DBEs over and over again on every project. He suggested a process whereby Caltrans would contact DBE firms directly and ask them if they were getting any work.

With respect to the Caltrans' bidding process, Interviewee #18, a Native American male-owned business, feels that it is unfair that when the company bids on a project as a general contractor, it can't use its own participation to meet the DBE goal. As a general contractor, Interviewee #18 has more control over payment, dispute resolution, and everything else that goes on. Being a subcontractor adds another layer of requirements because the general contractor has its own contract with Caltrans, which is imposed on top of Caltrans' requirements. Sometimes, there is exculpatory verbiage used to benefit the general contractor and it does not have to do with the performance of the work. Interviewee #18 feels that by not allowing the company to use its own participation to meet the DBE goal, it is forcing all DBEs to be subcontractors. Interviewee #18 explains that there are times when he gets contracts where he is not permitted to see the contracts before he bids the job. Interviewee #18 refuses to sign these contracts, and notes that he has lost jobs and been replaced because the terms and conditions are more stringent in the subcontract than if he were to work directly for Caltrans.

Interviewee #18 has experienced a "dramatic" difference after May 2006 when the DBE goal became more of an effort. He explains that there is an overall state goal which is not published on each project. Since this change, the company has been getting "almost nothing" in terms of requests to bid

from general contractors. He currently gets about 2-3 requests a week, whereas before May 2006, he would receive 6-7 in a week. The company's last Caltrans project was in 2006. Additionally, Interviewee #18 used to get calls from Caltrans' administrative branch for the DBE requirements verifying the general contractor's efforts to use minority contractors, for example, by inquiring whether a certain contractor had sent him a request and whether they had asked him to bid on a project. He has not received any calls recently.

CATA #10, an Asian American trade association, thinks Caltrans should return to the race-conscious goal and increase the goal. He would also like them to have a pre-proposal conference and to relax their criteria requiring Caltrans prior experience (similar experience should be enough).

CATA #11, a minority trade association, reported that he would like Caltrans to send his trade association notices of bids. Other public entities do a better job of notifying his organization. He would like Caltrans to have a "more hands on approach" as far as "assigning a person to talk to the smaller contractors when the smaller work comes." "Once the smaller contractors start doing work with Caltrans and they know how the system works ... it would go better." There is just a general lack of knowledge of how to pursue Caltrans work. Even though he is the president of the association he doesn't even know how to find out about Caltrans jobs.

Interviewee #38, an Afghan male-owned business, stated that the biggest barrier to his getting more Caltrans work was information. Finding out where work was available was the major barrier to getting more business. He had no effective way other than word of mouth for investigating new jobs.

Interviewee #54, a Hispanic male-owned business, identified as the principal barriers to getting work with Caltrans were that Caltrans "doesn't bother to notify small contractors [of its jobs]" and "doesn't care about small contractors." In this respect, "public agencies are all the same.. if you know somebody, you're somebody. If you don't know anybody, you're nobody."

Interviewee #57, an Asian American male-owned business, stated that it is difficult to pursue work as a small company with Caltrans. He notes that on most of the public projects, people have been working on proposals for many months before they become public and the subcontractors have opportunities to prepare statements of qualifications and proposal – there is not enough time and the teams are already set.

Interviewee #67, a white female-owned business, has found it difficult to access Caltrans work because she has never worked on a Caltrans job. She feels Caltrans is the only agency that does not have an outreach program.

CATA #2, an African American trade association, who reported that none of his members have experienced barriers related to race, indicated that the biggest barrier is knowing the process and how to use it. In the public sector, prime contractors somehow seem to have access to inside information that others do not and know about jobs before they are advertised and/or others learn about them.

Experiencing Working with Caltrans

Most of the interviewees had at least one experience working with Caltrans in the last five (5) years.

Caltrans officials and staff.

Many of the interviewees indicated positive experiences and interactions with Caltrans personnel. Interviewee #1, a Native American male-owned business, noted that he has had a good experience working with Caltrans staff; he thought "people were professional and nice." Interviewee #17, a white male-owned business, stated that he has had "pretty good" experiences with Caltrans staff. Interviewee #27, an African American male-owned business, described the people with whom he dealt at Caltrans as "very friendly" and "good people." Of Caltrans staff, Interviewee #35, a white female-owned business, said "[a]ll been positive." Interviewee #19, a Hispanic male-owned business, stated that in the few times she has dealt with them, they have been "decent" and "easy to work with."

Interviewee #39, a Hispanic male-owned business, felt that the company generally had positive experiences with Caltrans officials and staff. Interviewee #39 said that most of the engineers with whom the firm had been dealing are persons of color and that "they seemed to be paying attention and non-discriminatory." Interviewee #16, a white male-owned business, similarly noted that Caltrans officials and staff are "usually easy to get a hold of" and "helpful."

Interviewee #46, an Asian American male-owned business, Interviewee #47, a white male-owned business, Interviewee #48, an Asian American male-owned business, Interviewee #50, a white male-owned business, and Interviewee #60, an Asian American male-owned business, described Caltrans' personnel with whom they dealt with as having been "always very professional" and "very positive." Interviewee #46 stated that there was always someone who could answer his questions on job sites and during the bidding process.

Interviewee #54, a Hispanic male-owned business, said that we had "no problem" with Caltrans officials and staff in his role as a supervisor for private contractors. Interviewee #52, a white male-owned business, described the persons with whom he had dealt at Caltrans as "very nice" and said that they answered all of his questions. Interviewee #75, a white male-owned business noted the same, and feels that Caltrans officials tend to be knowledgeable. Regarding his experiences with Caltrans officials and staff, Interviewee #9, a white male-owned business, said that "[g]enerally I have a high respect for 80% of their staff. And just like any group of people there's 20% of the staff that give the other 80% a bad name."

Interviewee #82, a white male-owned business, stated that his experience with Caltrans officials and staff has been pretty positive. Most of them have been quite cooperative and seem to be very appreciative of his efforts to try to educate them on the job as to the specific work he performs.

A small or micro business, stated he has had very positive experiences with Caltrans employees, he pointed out that they "always treated me and my company fairly without regard to race, sex, creed, or color." He stated "overall, Caltrans is the easiest agency within California government to work with and most certainly is the most 'open' agency, especially with regards to individual employees at all levels." (Written testimony submitted 3/19/07).

Several of the interviewees indicated mixed and/or less favorable experiences and interactions with Caltrans officials and staff. Of those with less favorable experiences and interactions with Caltrans officials and staff, several interviewees attributed that sentiment to perceived bureaucracy within Caltrans.

Interviewee #19, a Hispanic male-owned business, stated that the Caltrans staff can tend to be a little bureaucratic and a little difficult to work with. He said that sometimes Caltrans ties his hands by stipulating certain things that are not industry standard or not realistic. In general, Interviewee #23, an Asian American male-owned business, had a very negative view of Caltrans staff and believed that they were simply not interested in hiring smaller companies in the same way as other public agencies (e.g. BART). Interviewee #23 stated that many people who are actually making decision about contracts for Caltrans and who have considerable discretion basically just hire the large companies with whom they have existing relationships rather than hiring small DBE companies.

Interviewee #22, an African American male-owned business felt that in general, Caltrans' staff were unusually difficult to deal with, as compared to local agency staff on projects of similar scope. Interviewee #22 mentioned many instances of Caltrans staff interactions on local agency jobs that were problematic. Interviewee #22 also described the process of bid review as onerous, which he viewed as unnecessarily burdensome, again comparing it to his experience with local agencies. He attributed the bid review process as the reason his company has not received contracts.

According to Interviewee #26, a white male-owned business, there are "too many people in their [Caltrans'] chain of command." Interviewee #26 also stated that it was his experience when working on Caltrans projects that "you can't get answers quick[ly] when you're out in the field building these projects, [but] sometimes you need answers fast." Caltrans' on-site inspectors, he said, "just won't make common sense decisions [because] they feel like they gotta get an okay from up above." Interviewee #26 also felt that Caltrans' project plans and specifications do not allow for enough working days for small contractors and that Caltrans engineers use "unrealistic budgets."

Interviewee #29, a Hispanic male-owned business, believes that the Caltrans officials and staff are very "legalistic," and analogized the feeling of dealing with them as in a deposition. Interviewee #5, a white female-owned business, felt that an "adversarial" relationship had developed with Caltrans engineers over the last few years. One problem noted by Interviewee #5 was that authority is still with senior engineers higher up in the Caltrans bureaucracy, instead of with the resident engineers who are on-site. Interviewee #47, a white male-owned business, experienced challenges in the negotiation stage of the contract where the process can be lengthy.

Interviewee #51, a Hispanic male-owned business, described his experiences with Caltrans officials and staff as positive when dealing with the local jurisdictional level than with Sacramento, and that this arrangement was better and made the work go easier.

Interviewee #33, a Hispanic female-owned business said that the company's dealings with Caltrans officials and staff had been okay, except for their dealings with Caltrans' auditors. According to Interviewee #33, an auditor came into the company's office in 2005 and spent several days going through the company's books. But, she said, this auditor used a non-typical week in which Interviewee #33 had spent many hours volunteering for different organizations to calculate Interviewee #33's hourly rate, and, as a result, Interviewee #33's hourly rate came out substantially lower than it should have been, such that the company actually lost money by working on the project. Interviewee #33 stated that she had since "turned down a few [Caltrans] projects" because she was better off not doing them.

Interviewee #67, a white female-owned business, used the words "nice" and "perfunctory" (emphasizing the latter) to describe Caltrans' officials and staff, and she said that her experiences were

"totally different" when meeting engineers one-on-one than when encountering the Caltrans bureaucracy and/or attending its meetings. Interviewee #68, a white male-owned firm, said that she had been waiting for two or three years for one Caltrans project on which his firm is listed to go through, because Caltrans keeps changing the criteria and its departments keep going back and forth.

The experience of Interviewee #28, a white male-owned business, relayed both good and bad experiences with Caltrans officials and staff. Offering an overall characterization of his experiences with Caltrans, Interviewee #28 stated, "It's big. That's the problem." The chain of Caltrans bureaucracy is the issue.

CATA #1, an Asian American trade association described his and the Association's members' interactions with Caltrans officials as "very positive" and said that these officials demonstrated a willingness to listen. He said, however, that it was a "different story" when it comes to those in the Caltrans' middle management who are awarding contracts.

A small design firm was upset because the notice of the public hearings was sent after the public hearings started. (Written testimony submitted 3/21/07).

CATA #12, an African American trade association, said that if a Caltrans manager is not encouraging small business participation, then everyone "run[s] into a brick wall" because the people in Caltrans working under this manager adopt his or her attitude, and that some of the Caltrans managers simply do not care about the DBE program and/or small business participation. Moreover, said CATA #12, this attitude can bleed over into and affect the attitudes of the people at Caltrans who are reading and deciding on bid proposals and RFPs.

Some of the interviewees attributed their less than favorable experiences to financial concerns.

Interviewee #49, an African American male-owned business, stated that most of his experiences with Caltrans officials and staff were good, but he spoke of one incident where he refused to allow a prime contractor to dictate price terms. Interviewee #49 said that Caltrans "for whatever reason . . . set up an interview" in which the prime contractor was able to tell his side of the story, but Interviewee #49 was not, and the Caltrans official unjustifiably questioned his business practices.

This sentiment was echoed by Interviewee #34, a white male-owned business. Interviewee #34 stated that overall his experiences with Caltrans officials and staff had been "favorable," but he identified as a frustrating issue that Caltrans staff has to come up with third-party cost estimates and have to confirm cost estimates within a certain percentage even though they often do not have the expertise to do so.

According to CATA #2, an African American trade association, Caltrans officials and staff are good to work with, try to help, have a "can do attitude," and that they are good about listening to his and others' concerns.

CATA #6, trade association representing heavy engineering contractors, has found Caltrans to be very interested in working with her and her members – they have been extremely responsive and helpful most of the time.

CATA #7, a Filipino trade association, commends Caltrans' commitment to increasing small business participation.

CATA #9, an association of consulting, engineering, and land surveying firms, has mixed experience with Caltrans' officials and staff; there is a "disconnect" between upper level management and staff who actually issue change orders. For example, he stated Caltrans legal opinions have been very "negative" and are not beneficial to the subconsultant side, and it is too expensive for smaller firms to come up with a contrary legal opinion (goals related and related to a prime contractor not meeting their goals).

CATA #10, as Asian American trade association, does not have much experience with Caltrans officials and staff but in general, they feel they are okay.

Caltrans online website.

Many of the interviewees indicated that the Caltrans online website is helpful and contains readily available information. Interviewee #1, a Native American male-owned business, said Caltrans' website is easy to use, informative. Interviewee #9, a white male-owned business, relayed that he was generally "very pleased" with Caltrans' website. Interviewee #27, an African American male-owned business, and Interviewee #26, a white male-owned business stated that the Caltrans website is "good," and that "it helps."

Interviewee #19, a Hispanic male-owned business, finds the Caltrans website helpful in monitoring work and upcoming opportunities, and also with road conditions. He uses their website a lot and finds it very helpful. Interviewee #33, a Hispanic female-owned business, stated that she had been to the Caltrans website "a lot" and that she "generally found everything [she] need[ed]."

Interviewee #32, an Asian American female-owned business had been to the Caltrans online website "because of the certification," and she said that she was able to find everything she was looking for there. Both Interviewee #35, a white female-owned business, and Interviewee #41, a white male-owned business, indicated the website was "informative." Interviewee #47, a white male-owned business, and Interviewee #50, a white male-owned business, described the website as "[g]ood and user friendly."

Interviewee #39, a Hispanic male-owned business, stated that the Caltrans website has "been good." Interviewee #39 noted particularly that the website was helpful in that it allowed him to see what the payment schedules are for Caltrans jobs and to follow through and "make sure that we're being dealt with fairly." Interviewee #11, a Native American male-owned business, stated that the site has provided him with whatever he was looking for. Interviewee #51, a Native American male-owned business, stated that Caltrans' website "is not complicated" and that he was able to find whatever he is looking for on there.

Other interviewees described mixed experiences with the Caltrans online website. Interviewee #31, an African American female-owned business also stated that he and others from the company go to Caltrans' website to look for projects. But, Interviewee #31 said, Caltrans does not list all the projects, and, in any case, there is always a way that through change orders large contracts can continue on without the work going back out for bidding and/or proposals. Interviewee #31 suggested that Caltrans could improve its website by not only listing all of its projects, but also by including for each project a statement of what qualifications are needed in order for a firm to work on that project.

Interviewee #46, an Asian American male-owned business, said that he used the Caltrans website to get a listing of firms to solicit on different projects and felt that it was a helpful resource in this regard, but he did note that the information on the firms that are listed needs to be updated since, according to Interviewee #46, "a lot of" the firms listed have gone out of business or changed their name, phone number, or fax number.

Interviewee #7, a white female-owned business, described the Caltrans website as "good," and Interviewee #7 said that they were able to find everything they needed on there. However, Interviewee #7 stated that "it's not always easy to find because they'll move it," and Interviewee #7 felt that "they've been moving a lot."

Several interviewees indicated that the Caltrans online website is not "user-friendly" and that it is difficult to navigate. Interviewee #9, a white male-owned business, noted that the Caltrans online website "is so large that sometimes it's hard to find" what he's looking for. Interviewee #5, a white female-owned business, relayed problems with downloading materials from the Caltrans website, mainly because the company is in a more rural area and cannot get high-speed internet service. Interviewee #5 stated also that it was hard to find projects on the website, and that she and other staff spent a lot of time having to sort through the projects in order to determine which ones are in the company's area.

Interviewee #8, a Hispanic male-owned business, felt that the Caltrans website "could be a little easier to navigate through" and that "[t]heir search engine could be a little more useful." Interviewee #8 also felt that the website would be a better resource if Caltrans did a better job of posting bid opportunities there. As for the Caltrans website, Interviewee #16, a white male-owned business, called it "a mess" and said that "[t]hey need to get somebody to reorganize that thing." According to Interviewee #16, "[i]t's bulky, it's hard to use, and you can't find information very easily.

The Caltrans website is "not very easy to navigate," according to Interviewee #85, a white male-owned business. Interviewee #54, a Hispanic male-owned business specifically stated that he had been to Caltrans' website a couple of times but found nothing useful and never went back. Interviewee #58, a white female-owned business, notes that the website is not particularly user friendly, and that it's easier to get information about Caltrans bids through email notification rather than going onto the website.

Other interviewees had various comments and recommendations about their use of the Caltrans online website. Interviewee #19, a Hispanic male-owned business, does not think that the website gives adequate notification of the work available. In that regard, Interviewee #21, a Hispanic male-owned business, has been to the Caltrans website but does not use it much. He uses Builders Exchange as his primary resource.

According to Interviewee #20, an Armenian male-owned business, he would recommend that Caltrans use their website to have the jobs and paperwork categorized so that the user can just go to the website and engage in an interactive process to get the paperwork done online or at least available to print, instead of calling somebody to get the paperwork. Interviewee #20 uses the website to find out about job opportunities, and he also checks Builders Exchange. Interviewee #49, an African American male-owned business, said that he could get a list of Caltrans jobs from its website if he wanted to, but that he usually gets his information from the green sheet first and then visits the website, as opposed to going to the website in the first instance.

Interviewee #26, a white male-owned business, said that Caltrans should provide phone numbers of individuals within Caltrans with whom someone looking on the website could speak "because there's [sic] just too many . . . questions that just can't be answered by the computer." According to Interviewee #26, "sometimes it's really hard to get through to a talking body." Interviewee #39 indicated that the listing of jobs on the Caltrans website could be improved, saying "[i]f that was better on the website we would probably look into the web site to find jobs." He also suggested that Caltrans offer a way for firms to sign up for an email list serve that would notify them of upcoming jobs. According to Interviewee #11, a Native American male-owned business, to learn about opportunities, advertising, or soliciting bids, or RFPs by Caltrans, the company looks at Caltrans' website.

CATA #1, an Asian American trade association, stated that he had found the Caltrans website to be "okay" and had no problems accessing it or information on it, and that he had heard nothing from the Association's members about Caltrans' website. CATA #2, an African American trade association, said that the Caltrans website is "hard to maneuver" and that one has "got to be a genius to use it." Although there is good information on the website, said CATA #2, many small business owners do not have the time or resources to be on there all the time (as do their larger competitors). CATA #2 also said that the Caltrans website should not be the only resource that businesses can access to obtain the information they need. CATA #2 felt that the list of certified DBE firms provided on Caltrans website is a "good source." CATA #2 said that prime contractors and others have access to it, and that it is a good tool for researching and locating firms.

CATA #3, a Hispanic trade association, described Caltrans' website as "pretty straightforward," but suggested Caltrans could improve the website by putting look-aheads on there and making it interactive, so that once a business registers for a certain type of work it will get email and other notices of upcoming jobs. CATA #9, an association of consulting, engineering, and land surveying firms, stated the Caltrans website is very generic, and "presents the information they want to present." He points out it does not provide any information on the SOQ. CATA #9 said a look-ahead is posted for a district, but it is sent to headquarters in Sacramento to be posted [on the website]. Sometimes, he said, the district doesn't even know the contract has been posted. CATA #10, an Asian American trade association, stated Caltrans has a good website.

DBE directory.

Several of the interviewees were familiar with Caltrans' list of qualified DBEs and had experience using Caltrans' list (Interviewee #1, #5, #7, #9, #10, #17, #18, #26, #33, #34, #42, #46, #47, #49, #51, #59, #61, #74 and #76).

Interviewee #5, a white female-owned business, stated that the company's only experiences with Caltrans' resources for locating qualified DBEs are with a list of DBEs published on the Caltrans website. Interviewee #5 indicated that this list is not as helpful as it could be, since it contains businesses who are located far away geographically and therefore would not be able to do or interested in doing work in the company's principal area.

Interviewee #9, a white male-owned business, stated that he was aware of the list of DBEs that Caltrans provides and posts on its website, but that he "want[s] to hire qualified DBEs based upon personal knowledge and personal friendships . . . just as I want to hire my doctor or dentist." Thus, Interviewee #9 generally tries to avoid what he calls "the yellow pages approach." Interviewee #42, an

African American male-owned business, noted that, with respect to locating qualified DBEs, he stated Caltrans or Clearinghouse has a list of certified DBEs that they “will send you.”

Interviewee #46, an Asian American male-owned business, noted that the municipalities for whom he works “get their [DBE] list from Caltrans” and “tell you to go to Caltrans’ website to . . . find DBE subs.” Interviewee #46 also stated that the company advertises for the majority of jobs on which it uses subcontractors, and that such advertising is in industry/trade papers and via faxes to the firms on Caltrans’ DBE list, which Interviewee #46 said the company uses “all the time,” and which he felt was a “very good resource.”

Interviewee #29, a Hispanic male-owned business, stated that he knows that Caltrans provides a directory of ready, willing, and able DBE contractors, because “I always check that to make sure I’m still on it.” Interviewee #33, a Latina, female-owned business, also had experience using the Caltrans DEB list/database, to which she noted many other agencies and local governments provide links from their own websites.

Interviewee #34, a white male-owned business, said that the firm’s marketing business development staff has access to the listing of Caltrans-certified DBE firms and that they would “regularly consult that list if in fact [the company] were attempting to find a DBE subconsultant.” But, according to Interviewee #34, the company does not use the list too much because they already have “a regular network of DBE firms” that they “regularly” contract with for particular tasks. Interviewee #46, an Asian American male-owned business, described the Caltrans DBE list as a “very good” resource. Interviewee #46 said that other agencies often referred him to the Caltrans list.

Interviewee #49, an African American male-owned business, noted he was aware of Caltrans’ DBE list/database and said that in the past Caltrans offered (at least indirect) assistance to contractors looking to locate DBE firms but that he did not know whether this practice continues. Interviewee #51, a Hispanic male-owned business, also said that what resources Caltrans provides in the way of locating DBE firms are “good” and “workable,” and that “[w]hatever they can do to continuously improve is better.” Interviewee #76, a white male-owned business, is aware of lots of online listings of ready, willing, and able DBEs. Interviewee #76 thinks Caltrans also provides directories for DBEs, but he hasn’t personally used any of them.

Interviewee #7, a white female-owned business, thought the Caltrans DBE list “is a good list” and “isn’t a problem,” and stated that “if any of the prime firms say they have a problem finding DBEs or minority- or women-owned subs they’re lying.” But Interviewee #7 suggested Caltrans should verify that firms on the DBE list are actually certified in their listed areas of specialization, noting he had seen firms that actually provide drafting services listed as engineering firms.

Interviewee #61, an Asian American male-owned business, indicates that DBEs are easy to locate because they are posted on the various industry websites. Interviewee #74, a white male-owned firm, believes that DBEs are well promoted by Caltrans. He has asked Caltrans for help in locating minority contractors and Caltrans as helpful in providing lists.

Interviewee #85, a white male-owned business, recalls an instance when he was bidding for a project with a strong DBE requirement. He went through all the Caltrans directories of DBEs, as well as other publications, but could not find any DBEs that worked in his specialized field. The lists

provided by Caltrans were seriously out of date, because many of the firms he called were no longer in business.

Several of the interviewees were not familiar with Caltrans' list of qualified DBEs and did not have experience using Caltrans' list. Interviewee #19, a Hispanic male-owned business, stated that if he were to need DBEs, he does not know where to go to find qualified DBEs. Interviewee #19, a Hispanic male-owned business, does not know how to find out what primes have expressed an interest in a particular RFP so that as a subconsultant or subcontractor can contact that prime about submitting a price quote. Interviewee #32, an Asian American female-owned business, stated also that she found out by "word of mouth" about other DBEs to whom her firm subcontracts work, and that she did not have any experience with using Caltrans' resources for this purpose.

Interviewee #40, a white male-owned business, doesn't have knowledge of how to locate qualified DBEs because they use the same companies all the time. Interviewee #50, a male-owned business, doesn't know of any resources provided by Caltrans regarding how to locate qualified DBEs.

Interviewees #52, a white male-owned business, Interviewee #48, an Asian American male-owned business, and Interviewee #54, a Hispanic male-owned business, were not aware of any resources provided by Caltrans for locating DBE firms. Interviewee #56, a white male-owned business, knows that you can locate qualified DBEs, but he stated that such a listing is not readily available over the internet or anything. What is listed on the internet "doesn't work that well."

Interviewee #64, a white male-owned business, is not aware of how to locate qualified DBEs. He is not sure whether Caltrans maintains a list. Interviewee #67, a white, female-owned business, and Interviewee #68, a white male-owned business, were not familiar with any resources provided by Caltrans for locating DBE firms. Interviewee #75, a white male-owned business and Interviewee #11, an Indian, male-owned business, do not know of any listing of DBEs.

Several of the interviewees had recommendations and general observations regarding Caltrans' listings of DBEs. Interviewee #15, a white male-owned business, did say that he sometimes had trouble finding the right sort of firm for a job and that more updated lists of available qualified DBE firms in various disciplines might be helpful. To find out what primes have expressed an interest in a particular RFP, Interviewee #29, a Hispanic male-owned business, suggests that he could call for the list of attendees at the mandatory meeting. For federal projects, the government will release names on the webpage, but he does not believe that California does this.

Interviewee #18, a Native American male-owned business, stated that finding qualified DBEs is usually a matter of experience with knowing who to contact that will actually work up a price. Sometimes DBEs will ignore requests from prime contractors because they have been discouraged from all of the requests they get that do not actually consider them. The problem is exacerbated by the fact that when a contractor is just beginning in the business, it is asked to list its category of work and in the beginning many contractors list everything because they want to try to do everything. It is very hard to change those categories later, even when the company has focused on doing one or two things. The result is that the company will still get requests for things that it selected as an area of work but the company does not do that area of work. A similar issue is that the categories are too broad.

Interviewee #8, a white female-owned business, indicated that the company does not rely on the Caltrans' DBE database, but, instead, uses a company that locates subcontractors based on the criteria that his firm gives them. Interviewee #72, a white male-owned business, recalls an instance when he was bidding for a project with a DBE requirement. Interviewee #72 went through all the Caltrans directories of DBEs, as well as other publications, but could not find any DBEs that worked in his specialized field. The lists provided by Caltrans were seriously out of date, because many of the firms Interviewee #72 called were no longer in business.

Interviewee #81, a Hispanic male-owned business, finds DBEs from whom to solicit bids through his personal contacts. Interviewee #5 a white female-owned business, noted that it receives the same list of DBEs from Caltrans for every project. Interviewee #14, a white male-owned business, maintains a list of subcontractors and monitors who on the list is a registered DBE. When they don't have someone on the list that meets the requirements for a particular project he said, the company will often look to lists of DBE's maintained by local agencies rather than to Caltrans because these tend to be more reliable and up to date than the Caltrans list. Overall however, Interviewee #14 tends to use the same DBE's from project to project if they are otherwise good at their respective jobs.

Interviewee #40, a white male-owned business, usually uses the lists of DBE companies and sends out a lot of requests for quotes, but it is her experience that about one third (1/3) of the companies are either out of business or have nothing to do with the actual needs for the project.

CATA #1, an Asian American trade association, said that the resources provided by Caltrans for locating DBEs were "a little on the short side" and that Caltrans needs more staff in its civil rights department. CATA #3, a Hispanic trade association, said it would be good if Caltrans would publish a directory of DBE firms like that provided by the Metropolitan Transportation Authority, which he described as a "very good" and a "good resource."

CATA #9, an association of consulting, engineering, and land surveying firms, indicated that it is almost all word of mouth to find a qualified DBE. A firm can be in the database as a DBE, but there is nothing to tell you if the firm is qualified or not. Also, the period between posting of the contract and submission of the SOQ is short so it is hard for firms to link up. CATA #10, an Asian American trade association, believes Caltrans should list the SIC code so they can know who does what on the DBE list.

Perceived General Barriers to Participation with Caltrans

All the interviewees were asked to relate their experiences, perceptions, and anecdotes in connection with conducting work on Caltrans contracts in general. Much of their responses are documented in other sections of this report. When asked specifically to identify any perceived barriers to their participation in contracting and procurement with Caltrans, the interviewees offered the anecdotes below. These anecdotes and perceptions are categorized according to the type of perceived reported behavior.

Contracts too large.

Many of businesses and trade associations listed the size of Caltrans projects as a barrier to receiving or pursuing work with Caltrans. These interviewees stated that Caltrans' contracts are too large for small or mid-sized businesses to bid as prime contractors. Interviewees acknowledged that

the nature of highway and bridge construction is that the work tends to be multi-faceted and large in scope. However, many business would like to see Caltrans make an effort to break these projects up into smaller pieces to facilitate opportunities for small or medium size firms to act as prime contractors.

CATA #4, an Asian American trade association, stated that until April 10, 2007, Caltrans made little to no efforts to break down contracts. Only a few of its members had done Caltrans work because the jobs were simply “beyond their capabilities” to handle. On April 10, Richard Lange, Chief Engineer for Caltrans, issued a directive to all the districts to create contracts one-half million dollars or under so that smaller firms could participate as primes. This directive was motivated by a number of factors, including the Governor’s pledge to increase small business participation and the Small Business Council’s lobbying efforts over the last several years. CATA #4 stated that this directive was “a good start.” CATA #4 understands that it is hard for Caltrans to break contracts up and that there may be costs associated with this process. However, the association feels it is an important step in the initiative to grow small businesses. According to the association, even 500 thousand dollar contracts are “doable” for DBEs.

CATA #4 uses the San Francisco Airport as an example of an entity that has done a good job breaking its work into smaller contracts. According to CATA #4, the Airport has broken \$1-2 billion jobs into \$75,000-\$80,000 projects. Small firms are now able to act as primes. It is important, said CATA #4 for architecture and engineering firms to “get their names on the plans” to build their resumes. They can use this experience when bidding other jobs.

Interviewee #12, an African American male-owned firm, believes that the Caltrans jobs are “a little too big” for his company. He anticipates that in the near future the company’s bonding ability will be near \$100-\$200,000, which will allow the company to do small Caltrans jobs.

Interviewees #7, a white female-owned business, works primarily as a prime in the private sector and works primarily as a subcontractor on public works projects because “the contracts are usually so large . . . [that] the people doing the selection are looking for huge numbers of people.” Interviewee #7 stated that the issue was with the size of the contracts, “not the size of the work.” Caltrans places a heavy emphasis on the size of the firms it selects and that, as a result, the company was shut out of opportunities to work as a prime contractor for Caltrans while its larger competitors were able not only to get the work but also to build capacity and skills in areas where they previously had no expertise (though #7 did) by virtue of getting the jobs – and thus experience – over and over again.

Interviewee #15, a white male-owned engineering-consulting firm, recognized that for smaller companies, the size of contracts might be an issue. He was unsure whether segmenting Caltrans projects was possible since road projects are necessarily large. He felt that joint ventures were a better answer to allowing small businesses to have greater participation on Caltrans projects.

A white female-owned professional services provider in the construction management field testified at a public hearing in Los Angeles that “bundling is a problem. Because these are megaprojects, we can't go as a prime. On some things we can team together and be like a prime. But on the megaprojects, it just absolutely eliminates the small guy.” (P.H. Los Angeles, 3/29/07). She acknowledged that “it's difficult for the agencies to have to manage so many contracts, but I think that's why there is a trend toward project managers who do that for them, who manage all the projects.”

Interviewee #2, an African American excavation company in business for twenty (20) years, has only done one job for Caltrans because his company is too small to be considered for even subcontracting on the large Caltrans jobs.

Interviewee #42, an African American male-owned firm, has done a lot of work with schools and with prisons but with respect to Caltrans “when you are a small contractor you can't really do it.” He stated that Caltrans requires bonding and that has posed some difficulty for him. He stated that the average price range of his contracts in the public sector are in the \$75,000 to \$1 Million dollar range.

Some DBEs noted that the size of public sector projects is an obstacle for smaller DBEs, but did not specifically reference Caltrans. CATA #1, an Asian American trade association, said that it was equally difficult to receive work in the public and private sectors, and that the private sector should be further divided into big and small. He said it was hard to compete with big firms in the private sector and even more difficult to compete in the public sector. In the public sector he said businesses were barred for “very subtle reasons”, and public agencies do not say why firms are not awarded contracts, but always award contracts to large firms on the misguided belief that these firms have more capacity and experience than small businesses. He stated that a majority of the association's members were so frustrated by these invisible and/or subtle barriers (namely size) that they no longer even try for public contracts.

He explained that he was now competing with large firms on an government agency contract for which his firm did not get short-listed. He said that he requested a debriefing and went in to speak with agency officials a few months ago. He discovered at this debriefing that no one had given a close look at his firm's proposal. He believes this was because the agency's project managers do not know him. He said that he had experienced this same thing happening with multiple agencies, and spoke of “mental barriers by lower tier managers in public agencies.”

Caltrans pricing.

Some of the businesses stated that Caltrans pricing is below market. Interviewee #3, an Asian American male-owned firm, does not like to work for Caltrans because of issues with Caltrans management. Interviewee #3 said that Caltrans' rates are at “force account” (in favor of Caltrans), such that subcontractors lose money. He believes Caltrans standard rates are outdated and not reflective of recently increased costs for fuel and materials.

Interviewee #47, a white male-owned consulting firm, stated that some Caltrans districts are “driving a really hard bargain relative to market prices.” Since the firm operates in the professional services realm, it must either accept Caltrans prices during the negotiation phase or decline the contract.

A female-owned DBE testified at a Stockton public hearing that she is not able to charge as much for biologists on Caltrans projects – “that's a bid barrier against going after any more Caltrans work at this time because the disparity is too great in terms of charge rates for the same amount of work that I'm doing” in the private sector. “Why would I work on a job for Caltrans at \$64 an hour, when I can take the same guy and charge him out at \$95 an hour and work for AT&T.” (P.H. Stockton, 3/20/07).

Administrative expense/bureaucracy.

Some businesses stated that it is more expensive to work with Caltrans due to certain administrative expenses. A female-owned DBE testified at a Stockton public hearing that "the paperwork that Caltrans requires to track a job through the Caltrans process" is a barrier to her pursuing work. "As a subconsultant we have to do a heck of a lot more paperwork than normally would be necessary, to demonstrate that we have actually charged on a particular job ... it takes time for the bookkeeper to process all this. I cannot charge the bookkeeper out on this because she's supposedly overhead, yet she has to drop whatever she's doing and spend three to five hours dealing with an \$84 handwritten receipt." (P.H. Stockton, 3/20/07). CATA #5, a trade association representing subcontractors, listed difficult bidding conditions and unfavorable contracts and inability to bond as obstacles to pursuing work in the public sector. Interviewee #70, a white male-owned firm, stated that there is more paperwork in the public sector, "with certified payroll reports and things like that."

Some interviewees listed "red tape" and bureaucracy as reasons they avoid Caltrans work.

Interviewee #76, a white male-owned firm who does 10% of its public work for Caltrans, has chosen to focus less on Caltrans and more on cities. He feels it is easy to work with cities because there is less "red tape." He has refused to bid some cities because the bidding process is too complicated and there are too many forms to fill out. He also feels there is less potential liability working with cities than on freeways for Caltrans. Interviewee #64, a white male-owned firm, also stated "there is a lot of red tape." California should take the lead from local governments who can put out a project faster with less paperwork and get the job done before Caltrans. For a local project, everything comes in one book and you fill it out and you are done.

A female-owned DBE testified at the Stockton public hearing that "the bidding process will not allow for any contingencies." She stated that unforeseen circumstances often arise on her jobs and it takes Caltrans three to five days of negotiation to make a decision. (P.H. Stockton, 3/20/07).

CATA #4, an Asian American trade association, mentioned expensive software as an obstacle for DBE architecture and engineering firms. For the last 10 or 15 years, architects and engineers have needed a computer program called "CAiCE" to view Caltrans survey plans and drawings. This program is expensive and requires employee training in Florida, which can cost up to \$35,000 for each engineer. If an architecture and engineering firm is not capable of using CAiCE, they are considered non-responsive by Caltrans. Now Caltrans has decided to drop CAiCE in favor of a program called "INRODS." This is yet another expense for architecture and engineering firms. The Small Business Council has been talking to INRODS to develop a training program for SBEs and DBEs, either over the Internet or at a local college or university. The distributor is also discussing discounts for DBE firms. According to CATA #4, this would help.

A small business owner stated that he has found Caltrans difficult to get business from and he has had meetings, provided quotes, and has had no results. (Written testimony submitted 3/14/07).

Caltrans work "in-house."

Some businesses reported that Caltrans' approach of keeping certain work "in-house" has acted as a barrier to them receiving Caltrans work. Interviewee #4, a Native American male-owned firm, used to do a lot of Caltrans work and reported mostly good experiences. However, when Caltrans started doing architecture and engineering work in-house, the company, along with other

subcontractors and prime contractors who had been working together on these projects, lost the work. The company now operates almost exclusively as a prime contractor on housing development/subdivision work on Native American reservations.

Interviewee #31, an African American female-owned firm, feels that she has "not been as successful" as she should have been in receiving Caltrans work. She described Caltrans as "really unique," in that, unlike other public agencies, Caltrans keeps its utility work in-house. Interviewee #67, a white female-owned business, who has never received a Caltrans project, approached the regional Caltrans office in San Luis Obispo to look at their drawings and discuss the possibility of her company doing work for them. However, Caltrans eventually decided to keep its scanning in-house.

Caltrans using the same large firms.

Several interviewees complained that Caltrans seemed to select the same large prime contractors for all the projects. Some interviewees recognized that this might be due to the size of the contracts and the fact that only a few firms are capable of handling such capacity.

Interviewee #17, a white male-owned firm, has had "very little success" in getting work in the public sector, and attributes this lack of success, particularly with respect to Caltrans, to there being a "good old boys club" such that the same contractors receive all the Caltrans work. He stated that "[e]very project just seems to go to the same four or five bidders no matter what we do."

Interviewee #22, an African American male-owned firm, although registered as a DBE, has received no work with Caltrans. He perceives Caltrans' "overall philosophy" of contracting as strongly biased towards larger architecture firms with global reputations and strong contacts within Caltrans. He also stated that Caltrans is difficult to deal with due to the level of bureaucracy. He described having to deal with as many as twenty people in applying for a Caltrans contract compared with two or three when applying for contracts with local agencies on projects of similar scope.

Interviewee #29, a Hispanic male-owned firm, stated that his biggest barrier to getting public sector work is "incumbency." He believes that the public agencies want to use the same people they have been using. Because they are not allowed to renew or extend the contracts, they put them back out for bid. According to Interviewee #29, 80% of the time, the same contractor is rehired. He describes it as a "cycle" that they go through. He has made five separate proposals to Caltrans from April 2001 to April 2002, and was short listed on three different projects in Sacramento, Los Angeles, and Utah. The projects ended up going back to the incumbents. He describes the process as very "laborious" since it requires the team to procure its own equipment and go to the site to do an assessment, which takes several days to prepare. Interviewee #29 described it as a "tiger leash."

CATA #9, an association of consulting, engineering, and land surveying firms, reports that its members are not involved in the bidding process; rather, they respond primarily to RFQs (requests for qualifications). He stated this is qualifications based. "The perception is that if you are a smaller firm or a DBE firm you won't have the horsepower that Caltrans is looking for to take on some a lot of these contracts. Even though you may have the right people at the right time, the perception is that if you don't have four times as many people as the contract might need, you're not going to be considered for it. . . . As a prime, it is difficult to gather enough staff without putting together a complicated team, and then when they see a complicated team they also tend to also not look favorably upon you because they consider it to be too much management." So, it is difficult for the consultants who are going after projects as a prime to compete against a lot of the larger firms. If they

go after a contract as a subcontractor, they have to have something unique a lot of times to get them on the team.

A small DBE design firm, related an experience in which they were short-listed on a Caltrans RFP and were ranked number two behind a large prime firm. They learned that the large prime firm prepared the pre-design study for the RFP, and they still wonder whether their firm and others "even had a chance." (Written testimony submitted 4/27/07).

A certified DBE and MBE stated, "though the industry may not be placing undo burden on DBEs directly the lack of knowledge of the DBEs in this industry has, I believe, placed many barriers that most have not been able to surpass." (Written testimony submitted 3/20/07).

A woman travel agent stated that when she "participated in at least two of [Caltrans'] forums, no one knew anything about potential business opportunities for travel." With respect to the travel industry, "it appears that DOT works exclusively with the mega agencies (i.e. American Express) . . . There is no sincere effort or any effort to address this at all." (Written testimony submitted 4/04/07).

A white female owned firm stated, "frequently, we don't have the purchasing power of large companies to satisfy insurance and other contract requirements to compete for work." (Written testimony submitted 3/26/07).

Some businesses viewed Caltrans as more receptive to large firms. Interviewee #8, a Hispanic male-owned firm, stated that "some of the larger companies have a lot more pull with Caltrans than the little guys do" and thus can get away with more, and are not held to the same standards as smaller firms "everywhere from the bid process on down to building."

A white female-owned professional services provider in the construction management field testified at the Los Angeles public hearing said that Caltrans attitude is if you are a "small business, you can't do it ... And it's just not true ... smaller businesses have established themselves as reputable and able to do the work and there's no reason why they shouldn't have the equal playing field." (P.H. Los Angeles, 3/29/07).

Some trade associations attributed this to the attitudes of the Caltrans staff. CATA #8, a Hispanic trade association, described the discrimination within Caltrans as "institutional" because "state government is reluctant to change" and "big government likes big corporations." "State workers don't go to work in the morning with the objective of discrimination. They go to work seeking the achievement of results based on past practices. Caltrans is comfortable with existing contractors. Just go to any pre-bid conference and see the array of prime contractors, white male dominated." "Contracting with Caltrans requires experience, capital and bonding. To satisfy construction requirements Caltrans relies on an established pool of prime contractors. This pool of "prime contractors" in all classes developed over many years. As expected the pool of prime contractors is white male dominated. The only way for DBEs to penetrate this market is for aggressive government affirmative action programs."

He explains that procurement personnel are evaluated by whether the project was in budget and on schedule. The Caltrans engineers are afraid to take chances on smaller or unknown firms for fear that their performance will affect the engineers evaluation and possibly affect their job security. This results in the engineers continually picking the larger contractors with many years of Caltrans

experience. This does a disservice to the community as local small businesses are underutilized and projects are often over-priced.

Similarly, CATA #4, an Asian American trade association, notes that the selection panels are composed of young engineers who are overly concerned with experience and feel that newer, smaller DBE firms cannot produce.

Interviewee #32 stated that Caltrans is "a pretty established agency" and said that it was going to take "many years of marketing and getting to know the players before being able to submit ... our qualifications as a prime contractor." Interviewee #49 said that the agency "intentionally write[s] [its specifications] to preclude other smaller contractors" and that the impact on DBE firms (which tend to be smaller) is disproportionate.

Selection criteria.

Some interviewees mentioned Caltrans selection criteria as a barrier to firms receiving contracts. Interviewees took issue with a variety of selection criteria.

Professional service interviewees stated that the requirement that firms have past Caltrans experience makes it difficult for contracts who have never worked for Caltrans to "break in."

CATA #4, an Asian American trade association, believes that unless a consultant has prior experience with Caltrans, it is difficult to win a Caltrans project. This results in the same firms getting the Caltrans work. Up until recently, Caltrans did not consider "similar" experience as part of the criteria. According to CATA #4, some changes have been made and Caltrans now looks at "comparable" work. This change has been implemented in Districts 4 and 7, but the association is unsure whether it is statewide. The association attributes the change to the efforts of the Small Business Council. The association stated that it takes longer to get these initiatives implemented in certain districts, such as District 11, without a strong Small Business Council presence.

CATA #10, another Asian American trade association, stated that the majority of its consultant members have been unsuccessful in attempts to work with Caltrans because of special requirements, including training and prior Caltrans experience.

A minority female-owned business testified at a public hearing in San Bernardino that governments are "looking for a company that has already done business with them. So you can't really quite get in there if they're saying you haven't done any business, so we aren't doing business with you." She stated that she has lost several contracts and been told by the government entity that "it was the lack of the company's experience" even though the individuals in the company have both worked for 30 years on government contracts. "I know the federal government flatly stated once that they don't want to be your first." (P. H. San Bernardino, 3/20/07).

Interviewee #70, a white male-owned firm, identified being non-union as a barrier to obtaining Caltrans work.

Other interviewees mentioned that Caltrans sometimes takes the physical proximity of the contractor's office into consideration, which in their opinion unfairly biases small DBE businesses who have fewer locations. CATA #4, an Asian American trade association, stated that some of the criteria deal with location of the architect or engineers office. This should have no bearing on the qualification of a firm to do the work. Some of these "archaic" factors have 20%

weigh. Smaller minority firms do not have multiple offices, so the criteria indirectly work against smaller, DBE firms. Interviewee #33, a Hispanic female-owned firm, identified as a barrier to pursuing work with Caltrans that the different Caltrans districts seem to have a preference for awarding contracts to firms located within that district. Interviewee #33 said that the company had applied for different Caltrans projects throughout the state but receives only jobs within her district. She said that if Caltrans is going to have a preference for using firms within its respective districts, it should explicitly state this policy. Interviewee #33 stated that this same local preference issue [of choosing contractors from a specific district] was something that she experienced in trying to get work for different cities throughout the state and in a neighboring state.

Interviewee #65, a white male-owned firm, has noticed that there is a barrier in the form of equipment dates related to Caltrans because his equipment is older, even though it is refurbished, he cannot get jobs. Also, he has had problems getting local jobs for Caltrans projects. He sees primes bringing in subcontractors from other cities and counties to perform work. Interviewee #84, an African American male-owned firm, also viewed equipment requirements as a barrier to receiving Caltrans work. He stated that Caltrans would not certify him as a DBE because he did not have his own trucks.

Selection panel.

Some interviewees stated that the composition of the Caltrans selection panels precluded certain firms from work. CATA #4, an Asian American trade association, explained that each district has a selection panel that reviews proposals of architects and engineers and selects them for work based on qualifications. CATA #4 feels the composition of the selection panel and the selection criteria may be biased toward the larger firms. According to CATA #4, within the last year, four (4) different Caltrans district offices have awarded a large architecture and engineering contract to the same mid-size firm. The firm, in CATA #4's opinion, may be able to handle one of these contracts but probably not all four. The districts did not communicate with each other to determine whether this firm had the capacity to handle four large contracts – “Caltrans is not looking at things in aggregate.”

CATA #4 believes that some members of the selection panel are biased toward using large established firms who have worked with Caltrans numerous times before. According to CATA #4, young, less experienced engineers are “overly concerned” with experience and feel that newer, smaller DBE firms “cannot produce.” The older, more experienced engineers are more adept at looking past fancy presentations and work on past Caltrans projects and seeing whether a firm is truly qualified. The older engineers are more likely to give a smaller DBE firm a chance. He feels that older engineers should be mixed with younger engineers on the selection panels.

Auditing.

One Asian American trade association mentioned Caltrans auditing as a barrier to professional service firms pursuing work with Caltrans. Pursuant to federal regulations public professional service contracts have to be audited. According to CATA #4, Caltrans auditing is not efficient and unfair to smaller businesses. There are two issues. First, the auditing process is untimely. CATA #4 reports that it sometimes takes Caltrans up to a year and a half to come back with the fringe benefit, overhead and profit factors. These factors determine how much profit the consultant will make. In the meantime, before the audit is completed, the firms have no knowledge of what they will ultimately be

paid. Sometimes, Caltrans will only give the firm 90% of the fee. He has heard cases where the subconsultant ends up owing Caltrans \$100,000 at the end of the contract.

Second, the process to challenge an auditing decision is “cumbersome” and difficult for smaller firms. CATA #4 stated that if the big firms are unhappy with an auditing decision they bring in their large accounting departments and lawyers to fight the decision. Small firms do not have large accounting departments or other resources to challenge auditing determinations. This has been a “consistent problem” said CATA #4. Compounding the problem, according to CATA #4, is Caltrans unwillingness to work directly with a subcontractor. Caltrans audits the subcontractor, but goes through the prime. Due to these issues with auditing, some firms decide not to pursue work with Caltrans. CATA #4 said that the SBC has raised this issue to Will Kempton. He recommends Caltrans try to speed up the auditing process so the firm can decide if it wants to do the work or adjust its actions accordingly. According to CATA #4, other public agencies have better auditing procedures. Unlike other public agencies, Caltrans will not take the results of other agencies audits. Other agencies accept other different agencies’ recommendations. It is fine if Caltrans wants to do its own auditing, said CATA #4, but it should conduct the process in a timely manner.

A Hispanic female-owned consulting firm testified, at a public hearing in Los Angeles, “consulting firms are subject to pre-award and post-interim audits which can take anywhere from 40 hours for a pre-award audit – and I’m talking about the auditor’s level of effort ... the construction industry on the other hand, is not held to this level of scrutiny.” Auditing is an “excessive strain on the resources” of a small business and “it’s definitely not in line with what should be customary.” (P.H. Los Angeles, 4/4/07).

Experiences with Payment

Payment by Caltrans.

All of the interviewees were asked to relate their experiences, perceptions, and anecdotes in connection with Caltrans payment policies and procedures.

Several interviewees reported the negative experience of untimely direct payment from Caltrans (Interviewees #5, #8, #14, #15, #19, #21, #26, #33, #34, #38, #39, #45, #47, #51, #55, #64, #75, #79, #81, #82, and #85). Many of these interviewees indicated that Caltrans takes an extremely long time (usually a minimum of 120 days) to pay for completed work. Interviewee #21, a Hispanic male-owned business, stated that it takes many months and interim payments for work on long jobs are hard to come by. Some of the interviewees went so far as to state that they prefer not to perform work for Caltrans because the agency is so slow in making payments (Interviewees #14 and #79). Interviewee #8, a white male-owned business, and CATA #6, a trade association representing heavy engineering contractors, attributed some of the payment problems with Caltrans to the “influx of new resident engineers who aren’t really experienced . . . enough to make good decisions.” CATA #6 stated that new resident engineers do not feel empowered to make decisions and a lot of times this can result in them not approving work, [and] not wanting to sign off on a notice of completion . . . they’re new, they don’t feel comfortable, they don’t want to get fired.”

Interviewee #26, a white male-owned business, stated it seems that Caltrans’ resident engineers get used to dealing with big contractors that can handle being shorted on six-figure contracts and carry this attitude over to their dealings with small businesses. That Interviewee also stated that “[Caltrans’]

monthly progress pay estimate is, more like you know, whenever they want to pay you.” Interviewee #14, a white male-owned business, indicates he prefers to work with local agencies on Caltrans-funded projects or to subcontract to Caltrans, because he gets payment faster than if he acts as a prime. Interviewee #85, a white male-owned business, noted that as a small business, slow payment is a problem because it is “financially challenging to have receivables out that far.” Interviewee #18 also stated that not receiving timely payment is a hardship because the company does not have a lot of cash. As a result, noted Interviewee #18, his company may have to tap into its line of credit, which costs 7-8% to borrow money against.

Interviewee #79, an African American male-owned firm, tends to avoid public work because the money takes too long. He stated he cannot afford to work with Caltrans or other government entities. He feels that the prime contractors in the public sector are “vultures” and has had to send some invoices to collection agencies. Interviewee #79 thought that Caltrans intentionally paid late in order to squeeze out the small businesses and allow it to work principally with a select few large firms.

Interviewee #36, an African American male-owned firm, stated that local government agencies and Caltrans are typically slow to pay their bills but that Caltrans had a uniquely bad reputation in this regard. He also felt that public sector clients typically did not police general contractor’s payment of their subs very well so that even if an agency paid the general, the subs on a public sector contract might not get paid for as long as 160 days.

Interviewee #36 stated that in his one experience with Caltrans payment had been relatively poor. Although he was supposed to get paid within 7 to 10 days of completion of work, he was not in fact paid until 120 to 160 days later. Caltrans paid with interest but he stated that this did not help him because he still had to make payroll and manage his cashflow situation in the interim. He felt that payment terms that allowed public agencies to delay payment so long as they paid interest in the end were not helpful to small businesses that are typically cash starved. He reiterated his point that the best solution to this problem from his perspective was to be smart about which agencies one bids for contracts with and to work primarily in the private sector where payment is far more prompt.

A DBE firm, submitting written testimony, stated that only Caltrans has a website to help determine when a prime is paid, however, “prime contractors still withhold payments past the mandatory 10-day limit, and force the un-bonded subcontractor to pay for materials that have been purchased but not installed in the project.” He stated they are on one Caltrans contract now where the “change orders are not processed for several months and/or billing is missed completely. Instead of helping the DBE firm they let us twist in the wind on the paid when paid clause, even though they are supposed to help.” (Written testimony submitted 4/20/07).

A WBE transportation landscape architect, submitting written testimony, stated it is not unusual to wait for six months to be paid on an invoice. (Written testimony submitted 3/19/07). An African American female-owned hauling DBE firm, submitting written testimony, sent documents to Caltrans regarding a current dispute over “prompt payment” on a federally funded highway project in California which she characterized as an “ongoing disparity experience.” (Written testimony submitted 4/13/07).

An overwhelming majority of those companies having a negative experience with Caltrans’ payment policies indicated that the problems are likely the result of bureaucracy in the agency's administration (Interviewees #5, #8, #19, #26, #33, #34, #39, #47, #51, #52, #64, and

#82). Interviewee #8, a white male-owned business, stated that sometimes problems are due to "an inspector who's being irrational and doesn't want to pay you[.]" that "[s]ometimes it's due to a resident engineer who's slow in processing[.]" and that "sometimes you get shorted on your quantities."

Other interviewees attributed the problem to issues pertaining to invoicing (Interviewees #5, #19, #26, #33 and #34), noting Caltrans stringent requirements for paperwork before acceptance and processing for payment. Interviewee #19, a Hispanic male-owned business, stated that Caltrans can be "petty" about invoicing, requiring that every item submitted is "dotted and crossed." According to Interviewee #7, a white female-owned business, "[i]t's a bureaucratic process and . . . most of the payment problems are due to how long Caltrans takes to process the invoices." Interviewee #7 stated that it sometimes takes as long as three (3) months for his company to get paid by Caltrans.

Other interviewees noted that Caltrans pays really well in terms of progress payments, but that Caltrans is horrible with making payments on "force accounts," where companies perform additional work on a daily time/material basis for the benefit of Caltrans. (Interviewee #76).

When filing a claim against Caltrans for slow payment, Interviewee #5, a white male- and female-owned business, stated that it felt that the Caltrans claims process it too slow and involves too much paperwork. This sentiment was echoed by Interviewee #34, a white male-owned business, who stated that Caltrans was "perhaps the most peculiar agency" with whom he had ever worked "in terms of the strictness of requirements with respect to invoice documentation." He stated further that, "[a]t times, the end result is that on a Caltrans contract, you get paid much slower [sic] than you would for a lot of other contracts, but the time which it takes from the time your invoice is actually approved is probably not significantly different than other entities." On the contrary, however, CATA #9 indicated that once an invoice is approved, payment by Caltrans is prompt.

Several of the interviewees noted that the problems associated with slow payment are particularly detrimental for small businesses (Interviewees #14, #33, #38, #51, #75, #79, and #81). Interviewee #33, a Hispanic female-owned business, stated that small businesses "don't have the huge budgets and bank accounts that the big offices have." Interviewee #51, a Hispanic male-owned business, noted that a lot of smaller and disadvantaged businesses simply quit bidding on government work (including Caltrans) because of slowness in payment and the impact on company financials. Interviewee #75, a white male-owned business, stated that Caltrans is always late with its payments, and that the delay has an adverse effect on his business' cash flow. Interviewee #19, a Hispanic male-owned business, stated that the private sector is better about the timing of payment. Interviewee #81, a Hispanic male-owned business, stated that the delayed payments affect his business as a going-concern. Interviewee #79, an African American male-owned business, stated that his company avoids public contracts because it cannot afford to float the project. Interviewee #64, a white male-owned business, stated the wheels of the government turn slowly, including payment.

However, according to Interviewees #72, #82 and #85 (all white male-owned businesses) unlike in the private sector where you might never get paid, you always know Caltrans will, in the end, pay. In general, Interviewee #61, an Asian American male-owned business, indicated that payment is "as expected" – "slow."

An African American DBE trucking company in business for less than a year testified at a public hearing in San Diego that due to payment issues and the increasing price of fuel "it is really hard to keep your trucks." (P.H. San Diego, 3/22/07).

A Hispanic female-owned consulting firm stated, at a public hearing in Los Angeles, "while prompt payment provisions are race-neutral, lack of enforcement of these provisions is a barrier to succeed in that they cause cash flow problems and inhibit the ability of small firms and DBEs to successfully bid and complete other projects." (P.H. Los Angeles, 4/4/07).

A white male-owned firm who testified at a public hearing in Los Angeles stated that he is seeking certification as a small business enterprise to take advantage of the prompt pay requirements. He stated that if you are an SBE and the government does not "pay you within the terms of the contract, 30 days. They pay you in 60 or 90. They owe you interest on that money ... as a small business, I'm able to collect [the interest] if I fill out the paperwork." (P.H. Los Angeles, 4/4/07).

Many interviewees indicated that payment by Caltrans was no different and/or better than payment in the private sector (Interviewees #1, #3, #4, #6, #9, #10, #16, #27, #35, #40, #41, #43, #46, #48, #49, #50, #52, #54, #57, #61, #62, #65, #66, #68, #69, and #76). In general, these companies stated they had positive experiences being paid by Caltrans. Interviewee #76, a white male-owned business, stated Caltrans pays really well in terms of progress payments. Interviewee #50, a male-owned business, stated he's always had a positive experience with getting paid by Caltrans. According to Interviewees #6, a white female-owned business, #10 an African American male-owned business, and #27, an African American male- and white female-owned business, there are no problems being paid by Caltrans.

Interviewee #6, a white female-owned business, stated business with Caltrans is just like that with other customers – walk-in point of sale on a credit card. Interviewee #18 noted that from the time of bidding to the time of the award, Caltrans is usually faster with its payment than the other agencies. He further stated that other agencies are slower processing contracts, and that by contrast, "Caltrans has that down to a science." In fact, for Interviewee #18's company, Caltrans' timing was sometimes "too fast."

The trade association representatives provided a range of perceptions on payment by Caltrans. CATA #1, an Asian American trade association, stated that, he had heard "horror stories" of late payment by Caltrans to small businesses. He stated further that under the tiered payment regime, the lower-tiered subs do the work first but get paid last, and that this practice forces "a lot" of DBEs into bankruptcy and causes many DBE firms to avoid working for Caltrans. CATA #3, a Hispanic trade association, informed the interviewer that he knew of one MBE firm that went bankrupt back in the 1990s because CALTRANS was slow in paying the firm for its work. The same interviewee recounted the story of a former employer of a large general contractor who told him that the firm would purposely withhold payments on whatever basis they could come up with in an attempt to bankrupt small firms and increase their own profits.

Alternatively, CATA #6, trade association representing heavy engineering contractors, stated she has "heard good things about the Caltrans progress payments." CATA #2 stated that while he knew of firms that were forced out of business due to delays in payment and the resulting impact on financials, his and the Association's members' experiences being paid by Caltrans were okay. CATA #10, an Asian American trade association, stated that he has heard some complaints that payment is

"not that fast," and that Caltrans has a cumbersome audit process. CATA #10 further noted that Caltrans sometimes will hold payment as a result of this auditing structure.

Payment by prime contractors.

All of the interviewees were asked to relate their experiences, perceptions, and anecdotes in connection with payment directly by prime contractors on all projects, including those administered by Caltrans.

Several interviewees reported no problems with payment by primes on Caltrans projects (Interviewees #4, #27, #57, and #68). Some interviewees believed the Prompt Payment Act effectively forced prime contractors to pay in a timely fashion (Interviewees #39, #55; CATA #2, #4, and #6). CATA #4 explains that Caltrans has a prompt payment policy, whereby Caltrans has to pay interest 45 days after submittal of the invoice. This is a huge incentive for Caltrans to pay on time and it usually does. Often times, this does not get passed down to the subs or monitored by the Contract Manager. If the sub has to go over the prime to the Contract Manager, the prime gets mad. The Small Business Council would like Caltrans to adopt a policy whereby the prime must get a verification of payment on the previous invoice to the sub before Caltrans will pay the prime's next invoice to Caltrans. According to CATA #4, Caltrans said it would have its legal department look into this, but the Small Business Council has not heard anything since proposing the idea six months ago.

Interviewee #7, a white female-owned business, explained that sometimes payment is held up because there is a problem with a prime contractor's invoice, and that even though the problem or error may lie with only one subcontractors' component of any given invoice, payment to the other subcontractors is held up because Caltrans will not pay the prime contractor, thus holding up everyone else's money "until that one firm cleans up the invoice and resubmits it."

Other interviewees reported that primes contractors frequently paid slowly. Interviewee #54, a Hispanic male-owned business, said that prime contractors are "very frequent[ly]" slow in paying. Interviewee #65, a white male-owned business, and Interviewee #66, a white male-owned business, stated that "it takes some time for the money to make its way to the subs" and that this creates problematic "situations" regarding accounts receivable. As a general observation, Interviewee #19, a Hispanic male-owned business, stated that subcontractors are "at the mercy" of the prime. Interviewee #49, an African American male-owned business, stated slow payment is a barrier to pursuing work in the public sector. With regard to payment by prime contractors, Interviewee #18 noted that, as a subcontractor, payment depends upon the prime contractor's internal system for billing, and that sometimes his company is neglected. He further noted that the prime contractors are more interested in getting their payment, and, as a result, the subcontractor's payment is pushed back.

Interviewee #2, an African American male-owned business, prefers private as opposed to public contracting work because he gets paid faster. Interviewee #2's experience with public entities has been that they do not pay until as long as ninety (90) days after completion of work. The Interviewee noted this may not be a problem for prime contractors, however, it is a major problem for a subcontractor that has actually done the work but is left unpaid for up to three (3) months.

A representative of several DBE organizations stated that "not one local agency or Caltrans is enforcing prompt pay requirements. We are told they don't want to get involved in disputes between the prime and the subcontractors. Actually, the RIES and the inspectors plan on working for the primes when they retire so they definitely are not going to take the side of the sub against the prime." (P.H. Stockton, 3/20/07). Further, a female-owned DBE who testified at a public hearing in Stockton reported a ninety 90 day turn around on payment on Caltrans projects. (P.H. Stockton, 3/20/07).

Several interviewees believed the delay is attributable to the prime contractors and not Caltrans (Interviewees #10, #35, and #40). Interviewee #6, a white female-owned business, identified instances where prime contractors filed bankruptcy, changed their business name, and skipped out on payment obligations. Interviewee #16, a white male-owned business, noted that "being a subcontractor for a private contractor is probably the worst place to ever be in the business situation." Interviewee #58, a white female-owned business, noted that getting paid by primes takes a long time, notably well-beyond what it actually states in the contracts. On the contrary, Interviewee #28, a white male-owned business, stated that he is very careful to follow payment schedules with his subcontractors, particularly with the invoicing schedules.

Interviewee #51, a Hispanic male-owned business, noted "sometimes in a bureaucracy government gets so screwed up and so many people have to touch everything that it delays getting paid to primes, and the primes consequently do not pay you until they get paid because that is . . . the law" Several contractors stated that prime contractors operate on a pay when paid system. Interviewee #33, a Hispanic female-owned business, stated, "Prime contractors usually don't pay their contractors until Caltrans pays them. So, if Caltrans pays them slowly, guess where subcontractors are? They're at the bottom of the line." Interviewee #39, a Hispanic male-owned business, stated that prime contracts get paid well before subcontractors.

Interviewee #49, an African American male-owned business, formerly performed subcontracting work, but because there were so many problems getting paid by prime contractors, the company ceased working in that capacity. This problem was also identified by CATA #2, an African American trade association, which indicated that a lot of subcontractors, including the association's members, who experienced problems getting paid by prime contractors, have to stop work because of these payment issues – it "hurts them" and "kills them." CATA #2 stated further that he knew of firms that were forced out of business due to delays in payment and the resulting impact on their financials. CATA #11, a minority trade association, stated that payment in the private sector varies, and that some owners pay quickly, while others take their time. CATA #11 also affirmed that counties and cities are usually the slowest with payment, but that, unlike in the private sector, companies will eventually get paid. Interviewee #13, a Pakistani male-owned business, echoed that sentiment, and stated that he never has had any problems getting paid by other public agencies. He continued by stating that sometimes he had problems getting paid by prime contractors, but he attributed these problems to the nature of the industry, and that "[b]uilders like to hold on to money as long as they can."

Interviewee #39, a Hispanic male-owned business, did note that every now and then, his company runs into problems getting paid by prime contractors. According to Interviewee #1, a Native American male-owned business, payment by prime contractors is a "mixed bag, sometimes it's been very difficult." Interviewee #51, a Hispanic male-owned business, indicated that the "critical issue" is

the delay in payment by/from contractors that are the result of Caltrans' and other public agencies' practices.

CATA #7, a Filipino trade association, indicated that "he has heard complaints from his members that the primes will get paid and not pass the payment onto [the various subcontractors]." This complaint was echoed by Interviewee #54, a Hispanic male-owned business, and Interviewee #69, white male-owned business, who indicated that "primes want to hold onto the money as long as they can, and that sometimes the primes themselves are waiting for dollars to be released." CATA #2, an African American trade association, summarized the general theme of the interviewees statements • "you have to 'stay on [prime contractors]' and do your due diligence, and that '[i]f you stay on them, they'll pay you.'" Interviewee #42, an African American male-owned business, stated that his experience is that prime contractors pay subcontractors slowly or pay as they are paid. Interviewee #42's business situation dictates that he cannot wait very long for payment (because he employs union employees), and he now tells contractors that his company must be guaranteed payroll, as subcontractors are the ones paying for all the materials and labor up front. Since establishing these boundaries, Interviewee #42 usually receives "front money" or is paid weekly.

CATA #10, an Asian American trade association, stated another issue being paid by prime contractors is that subcontractors do not have any leverage. The Interviewee stated that the issue has been presented at many meetings with Caltrans, and that it is even worse for a second or third tier subcontractor. CATA #10 identified that this impacts the performance of the subcontractors and the cash flow of the small firms, which makes it very difficult for them to operate and at some times it has impacted whether the firm can survive or not.

A representative of several DBE organizations stated that "the biggest complain out there in the field is prompt pay ... BART and San Francisco Muni .. if a prime doesn't pay a sub in compliance with the federal regulations they simply go down and tell the prime 'We are not paying you.' And that is I think the intent of the regulations." He recalls the old Caltrans system where "when a prime contractor got paid they posted it on a bulletin board in the job house ... so the prime couldn't say 'I didn't get paid' ... we would like to see that come back. We would like to see Caltrans enforce it." (P.H. Stockton, 3/20/07).

A representative of several DBE organizations stated a public hearing in Stockton that "not one local agency or Caltrans is enforcing prompt pay requirements. We are told they don't want to get involved in disputes between the prime and the subcontractors. Actually, the REIs and the inspectors plan on working for the primes when they retire so they definitely are not going to take the side of the sub against the prime." (P.H. Stockton, 3/20/07)

Denial of payment based upon race.

Only one of the DBE or M/WBE businesses interviewed stated it feels its payment had been delayed or denied due to the company's status as a disadvantaged-, minority-, or female-owned enterprises (Interviewee #31). Otherwise, there were no complaints by the DBEs or M/WBEs of payment being delayed or denied on the basis of race, gender or ethnicity. Interviewee #48, an African American male-owned business, stated that he did not feel that any delays in payment were the result of racism or other discrimination. Interviewee #1, a Native American male-owned firm, echoed that statement, noting that "[h]e does not think his race or ethnicity or the size of his business has been a factor in payment." CATA #1, an Asian American trade association, stated he did not

know if race played a factor in slow payment situations. On the contrary, Interviewee #43, a Native American male-owned business, stated that, "where the racial thing might come into play would be . . . a lot of minority businesses the principals . . . tend to be less sophisticated . . . and are probably more easily taken advantage of."

CATA #3, a Hispanic trade association, stated that he knew of a Hispanic contractor that was forced to file for bankruptcy in the 1990s because he was not paid for work by prime contractors, as well as an [African American] owned firm that had problems getting paid by a prime contractor (on a non-Caltrans job) and had to fight the matter in court for some time. Interviewee #46, an Asian American male-owned business, stated he "did not feel that the slowness of contractors' payment or [an] incident where the company did not get paid was attributable to the company's being a DBE firm . . . '[i]t's just the way the business is.'"

Further, Interviewee #59, an African American male-owned business, stated that, the payment problems affect his bottom line, even though his performance has always been above board. He does not think it has anything to do with his race or ethnicity or the stature of the company as a DBE or a MBE, but that it has more to do with the size of the company – "it's malicious." CATA #10, an African American trade association, male-owned business, stated that he does not know whether race, ethnicity, or gender affect payment, although many times big firms will neglect the needs of smaller firms. The Interviewee stated that he does not know whether this is related to race, but most of the small firms do happen to be ethnic, small DBE firms.

Experiences Regarding DBE Utilization after May 2006

Some firms reported a decline in DBE participation since Caltrans moved to a race gender neutral implementation of the DBE Program. According to Interviewee #7, a white female-owned business, there has been a "great decrease" in the number and frequency of calls the company has received since May 2006. He said that this decrease has impacted the number of jobs and amount of work that the company has been doing for Caltrans. Interviewee #9, a white male-owned business, recognized that he had not been pursuing that many contracts with Caltrans since May 2006, but that he was "glad to see it [Caltrans' DBE contract goals] suspended." He stated also that when the DBE program was in place, he often "scrambled to find . . . the necessary quotas or set asides for various functions."

According to Interviewee #7, the company's phone used to ring "off the hook" with calls from prime contractors requesting bids from them, but now that "there's no DBE participation [goal], the phone doesn't ring." He stated further that since Caltrans ceased using the DBE participation goals, "our phones have stopped ringing on the DBE issue" and "[w]e don't get the calls anymore." The only projects for which the company still gets calls from prime contractors have been federal projects where there is a goal for small businesses and/or businesses located in HUBZones.

Interviewee #27, an African American male-owned business, indicated that there had been a decrease in the number of solicitations they have been receiving since May of 2006. Interviewee #27 estimated this decrease to be of a magnitude of "about 50%," but she also said that "a lot of those people were just using [them] for good faith purposes anyhow[]" and that they were only getting calls – but not work – from a lot of these firms. According to Interviewee #27, the same firms from whom they were getting work before May 2006 still call and use them. In terms of numbers, Interviewee #27 said that the company got work on only 20% of the jobs for which they were solicited to bid

before May 2006, and Interviewee #27 indicated that the company still lands this same percentage of the work they bid on now, though about half of the firms from whom they used to get calls had stopped calling.

According to Interviewee #32, an Asian American female-owned business, the company still receives the same two or three calls a year that it received before Caltrans suspended its DBE program, but she referred to the DBE solicitation process as "just a name sake" and said, "They just send these forms over that we have to fill out and then turn back in. Then we never hear back from them."

Interviewee #39, a Hispanic male-owned business, stated that, as a result of Caltrans stopping the use of participation goals and the decrease in solicitations from prime contractors, the company has had to be "very proactive [in] trying to locate work." He said that the company had received more work because of its being more active in seeking it, but that this work carried a lower profit margin and that the firm's bottom line had suffered as a result. Interviewee #39 also thought that the company had experienced a decrease in calls asking them to bid on projects for other governments and government agencies because they, like Caltrans, had stopped using DBE participation goals. He stated that the company has experienced an overall decline in the number and frequency of calls they receive from prime contractors soliciting bids. Although the company did not always get the jobs, and sometimes did not even bid on the jobs for which it was solicited, Interviewee #39 feels that the DBE program was good if for no other reason than it allowed DBE firms to get their names out to prime contractors.

Interviewee #18, a Native American male-owned firm, said that since May of 2006, some of the general contractors who used to subcontract the type of work that Interviewee #18 performs, have now hired their own crews to do the work, which eliminates some of the subcontract work that he used to receive. Interviewee #14, a white male-owned firm, estimates that its contracting is modified by 20 to 25% by the DBE program. Since the participation goals were no longer applied, the company has ceased using the 20-25% of subcontractors that is used to hire solely because of the DBE program. About 75 to 80% of its contracting remains unchanged by Caltrans no longer using DBE goals.

According to Interviewee #14, a substantial reason why DBE firms are not likely to be used without the program in place is that they do not tend to refer business to the company like its other subcontractors do, and as it does for prime contractors. Without this mutually beneficial relationship or the requirement of using DBEs, the company is disinclined to work with a subcontractor. Typically, Interviewee #14 uses DBEs for traffic planning, landscaping, electrical, geotechnical, and soils on its projects.

According to Interviewee #46, an Asian American male-owned business, the company would get contacted "at least once a week" to bid on Caltrans projects, but the number of requests for MBEs to bid on Caltrans work "has gone down somewhat . . . probably a lot in the last year or two"

Interviewee #59, an African American male-owned business, stated that his company does not receive many of these requests anymore, except from contractors with which the company has worked in the past. He thinks that this is directly attributable to the change in the DBE program. Interviewee #59 also has been more aggressive, stating "it's not like they're beating down my door."

Interviewee #67, a white female-owned business, stated the DBE program is a "vital gateway" to prime contractors and thus to work. She added that it took a lot of time and work to get the DBE program established, and "to see it no longer [be] part of good faith . . . " is indicative of the way the industry is going, and she said that "it's frightening."

Interviewee #17, a white male-owned business, stated further that his company's practices with respect to soliciting bids from DBEs has not changed in the past year, but the firm has not tried to bid a project with Caltrans since the DBE program was suspended. According to Interviewee #17, "DBE isn't the problem . . . Caltrans' hiring practices is [sic] really the problem, in my opinion."

Interviewee #47, a white male-owned business, stated that "[p]reviously [using DBEs] was always a requirement, so we always had DBEs working on the contracts." Now that there is no DBE goal requirement, they have "maintained the DBE subcontractors that they have good working relationships with." They use DBEs in the public and private sector. He has not noticed a decline in the use of DBE subcontractors since the program was suspended. They find subcontractors through previous project experience or occasionally they will ask their clients. They have utilized DBE firms.

Interviewee #69, a white male-owned business, indicated that up until two years ago, primes did try to use DBEs. But there were so many problems with DBEs not being able to complete the work in a satisfactory manner that primes stopped trying to utilize DBEs. Now, the primes just want to use subcontractors who can get the job done.

With respect to his experience with DBEs, Interviewee #45, a white male-owned business, stated there are "very few to solicit." He stated that "[it] has not been a requirement in 2 years. [It] used to be you couldn't get job if didn't have 20% minority." He stated that contractors didn't take the low bidder and sometimes had to take the high bidder to meet the goal. Interviewee #45 stated that now they can take the low bidder "rightfully the way it should be."

According to CATA #1, an Asian American trade association, his business is "very very rare[ly]" solicited to bid on Caltrans contracts. He said that, whether the work is for Caltrans or anyone else (both public and private sector), whether he and others are solicited for bids depends on whether they have a relationship with the prime contractors. He also said that the larger prime contractors often do not provide opportunities for these relationships to develop and that the impetus has to come from elsewhere, and he called Caltrans' mentor/protégé program a "first step" in this area. CATA #1 stated that, since Caltrans had suspended its DBE program, requests by prime contractors for bids had "decreased substantially," and that "race neutral" means "they don't have to use you . . . they can use somebody else." CATA #5, a trade association representing subcontractors, stated that its members have reported that DBE utilization has gone down since the suspension of the goals.

CATA #2, an African American trade association, stated that although his company had not worked under a prime contractor on a Caltrans job since Proposition 209 was passed, generally the frequency with which the Association's members received solicitations to bid on Caltrans projects did not change pre- and post-209. Rather, said CATA #2, the big change in solicitation frequency occurred with local government jobs. However, CATA #2 also said that DBE goals have never been met on Caltrans projects in the post-209 era.

Generally, said CATA #3, a Hispanic trade association, "[t]he fact that you're a DBE doesn't make you any better or any worse," but if a DBE firm has been around for a long time, it is "probably more

sophisticated" because it has a lot of experience dealing with public agencies and government bureaucracy. CATA #3 stated that in the 1990s there were more firms to choose from if one was looking for DBE firms to bid on Caltrans work. Now, he said, it is harder to put teams together, in part due to the passage of Proposition 209 and in part due to economics since Caltrans has not in recent years received as much funding as it did in the past.

CATA #6, a trade association representing heavy engineering contractors, stated that when the goals were in place, prime contractors spent huge amounts of money establishing "good faith efforts" even when everyone acknowledged the goal was impossible. Good faith effort is not a requirement anymore so prime contractors do not do it.

A white female-owned construction business certified as a DBE since 1981 and representative of the Women Construction Owners and Executives testified "when there are no goals, I can tell you that the fax machines stop, the phones stop, and there is no solicitation. After 209, it was just like night and day. The next day I got not faxes, the phone didn't ring, asking for my bid. It was remarkable .. I used to get maybe 20 faxes a day ... now I might get three a week." She still does 80% of her work in the public sector but stated "we have to really scrounge to find work." (P.H. San Diego, 3/22/07).

A female-owned consulting firm stated "large primes regularly use our company ... to join their team because we are a certified DBE firm, and I have no doubt that many perhaps most of those large primes would make no effort to include small businesses without that subcontractor requirement ... it's definitely dropped off in the last year." (P.H. San Diego, 3/22/07).

An African American certified female consulting firm stated at a public hearing "my firm was certified in 1990 and I sincerely believe that I would not have survived in business for the last 16 years had it not been for the existence of the DBE programs and others developed to address the current affects of past discrimination and the more subtle forms that remain ever present today ... I believe that San Diego is a poster child for the repeal of Proposition 209 ... Many firms have simply gone out of business, particularly those in the construction industry." (P.H. San Diego, 3/22/07).

An Asian American DBE female-owned consulting firm testified at a public hearing that since the suspension of the goals "it's very difficult for us to get contract, to get a subcontract." Before the goals were suspended they were able to get on teams with the primes. Now the primes do not include them. (P.H. Irvine, 3/29/07).

A DBE firm testified at a public hearing that he attended a pre-proposal meeting shortly after Caltrans suspended the goals and "the first thing they said that you do not have to use a DBE firm period. There was no explanation given, nothing. And most of the people around me ... said 'Oh what a relief.' That is not a very good thing to say." (P.H. San Jose, 4/4/07).

Interviewee #19, a Hispanic male-owned firm, stated that there are not many DBE contractors working for Caltrans as primes, and that it is of concern to him that Caltrans has recently eliminated the DBE percentage in their contracts. He stated that the DBE program has given the company an opportunity to access the marketplace, be it Caltrans or other public agencies, and the ability to compete with other firms. He has not perceived a difference in business before and after May 2006. Interviewee #19 observes that companies are still using DBEs despite the elimination of a percentage requirement, although they are not able to speculate on why DBE participation still exists.

Interviewee #19 added that it may be harder now for DBEs to obtain work, whereas it was previously easier to obtain the opportunities.

A DBE information technology consulting firm who testified at a public hearing stated that she does ninety-eight percent (98%) of her work in the public sector. She has noticed a gradual decline since the suspension of the goals, but due to her good track record she still receives solicitations. (P.H. Los Angeles, 3/29/07)

A certified DBE, submitting written testimony in connection with the public hearings, stated "The elimination of the race-conscious elements of the Caltrans DBE program will have a severe adverse impact on the availability of opportunities for all M/W/DBE firms to pursue and obtain public sector contracts." (Written testimony submitted 4/12/07).

A certified DBE and MBE, submitting written testimony in connection with the public hearings, stated that after the cessation of the DBE goals, "most viable DBE certified and no-certified companies do not participate because they are unable to compete in the market. . ." He also stated that "most prime contractors solicit in a non-bias form to the whole sub-contracting for all projects; but a good majority of these prime contractors also solicit based on their view of project requirements which sometimes eliminate contract opportunities from subcontractors." (Written testimony submitted 3/20/07).

A small business (presumably a DBE), submitting written testimony in connection with the public hearings, stated his phone "stopped ringing" with bid solicitations since Caltrans went to a race-neutral program (from three to six messages a day to zero). "[N]ow it seems [the "big contractors"] forgot about the DBEs and are back to using the same subs they always use and don't even advertise to anyone else." (Written testimony submitted 3/20/07).

A WBE transportation landscape architect, submitting written testimony, stated that 90% of her work comes from projects with hiring goals. She explained that a large firm can easily do the work in-house and "it is only because of the hiring goals that I am included in the marketplace at all." She stated that when Caltrans first eliminated hiring goals in the 1990's, she lost 80% of her business and it was a "disaster." She stated that she is "treated fairly only because of the hiring goals." (Written testimony submitted 3/19/07). A white female owned consulting firm, stated "there are still people out there who believe and tell us in no uncertain terms that a woman cannot do quality work." (Written testimony submitted 3/26/07).

An "ex-DBE" contractor who testified at a public hearing in San Bernardino stated that he was "forced out of business through the discrimination process of the non-DBE giants of the industry." He explained that he used to receive ample work from the large primes "during 1985 to 1995." But after that time the program became less effective. Before "the reason that these contractors would call us is to meet their DBE requirements ... Caltrans or the prime contractors found a way to honor those guidelines." He stated that now that the DBE requirements are no longer in place, DBEs are not utilized. He went bankrupt in 2000. (P. H. San Bernardino, 3/20/07).

Partnerships

All interviewees were asked their experiences with joint ventures and mentor protégé programs. The majority of the businesses interviewed have had no involvement with partnerships, either joint venture or mentor/protégé endeavors. None of the interviewees had participated in a joint venture on a Caltrans project. None of the interviewees participated in a mentor protégé program sponsored by Caltrans.

Joint ventures.

Fourteen (14) of the businesses interviewed had made at least one attempt at participating in a joint venture (Interviewees #2, #5, #9, #14, #16, #23, #34, #45, #47, #48, #56, #59, #61, and #74). However, none of these joint ventures involved work on Caltrans projects. In addition, four (4) trade associations interviewed had either directly been involved with a joint venture or had a member of its association who had joint venture experience (CATA #1, #2, #3, and #5). None of these experiences were on a Caltrans project.

Two of the thirteen (13) businesses attempted to participate in a joint venture but were unsuccessful (Interviewees #2 and #59). One business had been approached about a joint venture but never participated (Interviewee #16). Interviewee #2, an African American male-owned firm, expressed frustration with his experience, stating that he submitted a bid as a DBE partner in a joint venture for a project but the bid was rejected "because of problems with the way in which it was submitted."

Of the ten (10) businesses with experience participating in joint ventures, the joint ventures varied widely in experience. For instance, Interviewee #5, a white female-owned firm, had one joint venture experience working on a county project. Interviewee #9, a white male-owned firm, had a number of joint venture experiences but none with DBEs. Interviewee #16, a white male-owned firm, had joint venture experience with DBEs. Interviewee #47, a white male-owned firm, often worked in joint ventures pairing with minority and non-minority firms. Interviewee #47 stated that joint ventures are an advantage because "it presents a unified team to the client," and normally found partners through previous experience. Interviewee #74, a white male-owned firm, has bid a couple jobs in the public sector as a joint venture paired with a minority firm. He reported that it was a positive experience.

Seven (7) of the businesses disclosed whether their joint venture experience involved public or private contracts. Four (4) businesses were involved in joint ventures for public contracts (Interviewees #2, #5, #23, #74), two (2) businesses were involved with joint ventures of both public and private contracts (Interviewees #47, #48), and one (1) business had only been involved with joint ventures for private contracts (Interviewee #61).

Of the trade associations' involvement with joint ventures, two (2) of them were currently involved in joint ventures with DBEs (CATA #2, #3) and one had a member participating successfully in a joint venture with a large firm (CATA #1). In addition, CATA #1, an Asian American trade association, knew of small women-owned businesses participating in joint ventures with large firms. CATA #3, Hispanic trade association, who is currently participating in a joint venture with another minority business, stated that the experience has been very positive. CATA #3 has no knowledge of any of its members having experiences in joint ventures with non-DBE firms. CATA #5, a trade association representing subcontractors, stated that some of its members have participated in joint

ventures. Picking the right partner is the most important element. You have to get a new license to work as a joint venture. This can be a difficult process.

Mentor protégé.

Almost all of the businesses interviewed have not participated in a mentor/protégé relationship. For those businesses aware of the Caltrans mentor protégé program, the consensus is that it is just getting started.

Interviewee #16, a white male-owned firm, previously participated in a federal Small Business Administration mentor protégé program as a mentor. The two other businesses are enrolled in the Caltrans mentor-protégé program, one as a mentor and one as a protégé. (Interviewees #47 and #57). Interviewee #47, a large white male-owned engineering firm, is very active in a federal mentor protégé program and has mentored smaller minority and female-owned firms to become certified and establish working business models. While Interviewee #47 is enrolled in the Caltrans program, he does not think Caltrans' program is "off the ground yet." Interviewee #57, an Asian American male-owned firm, just recently entered the mentor/protégé program with Caltrans as a protégé and has not received a mentor. He, therefore, had no comments about its effectiveness.

Four (4) of the trade associations had members who had participated in any mentor protégé program. Half expressed that Caltrans mentor/protégé program is very good and can be very successful. (CATA #1, CATA #2). While the program has the potential to be successful, two (2) of the trade associations expressed that success will require a great deal of work. (CATA #2, CATA #3). In addition, CATA #3, a Hispanic trade association, would like to see Caltrans provide statistics showing the impact the program has had on opportunities for DBEs that participate. CATA #1, an Asian American trade association, is a protégé in Caltrans' program and expressed that the program "has been very good." He was among the first to promote Caltrans' mentor/protégé program. CATA #1 and two of its members had received jobs or at least been put on a project team as a result of their involvement with the program. CATA #5, a trade association representing subcontractors, reported that some of its members have participated in the SBA mentor protégé program. She was not aware of whether Caltrans had a program. She thought these programs were helpful.

Interviewee #15, a white male-owned firm, has never heard of either joint venture or mentor/protégé programs at Caltrans but thought they were both great ideas. Interviewee #15 recommended more emphasis be placed on these programs and credit given by Caltrans in the bidding process for bids coming from joint ventures between large companies and DBEs. Interviewee #81, a Hispanic male-owned firm, has no knowledge of formal partnership programs administered by Caltrans, but is aware of informal arrangements in the private sector where prime contractors mentor subcontractors, and help them with bonding and sending work their way. CATA #7, Filipino trade association, is aware of Caltrans' efforts to implement a mentor/protégé program, but has seen no partnerships result thus far.

DBE and 8A company submitting written testimony is involved in the San Diego mentor-protégé program with the AGC and stated there "seems to be some conflict with their participation and their stance on programs . . . [and] there remains a resistance to inclusion and opportunities." (Written testimony submitted 3/26/07).

Anecdotes Regarding the Existence or Non-Existence of Barriers in the Public and Private Sector

Financing, bonding and insurance.

Many DBEs reported that bonding, financing and insurance is a barrier to pursuing work in the public and private sectors. Interviewee #26, a white-male owned firm, stated that "bonding is a big barrier," especially in the time since September 11, 2001 because "the bonding industry took a big hit when the twin towers went down" According to Interviewee #26, bonding companies used to give businesses twenty (20) times their working capital, but now give only five or ten times their working capital. Interviewee #26 relayed one recent experience in February 2007 when he bid on a highway project but could not get a bid bond for the project and thus could not compete for the job. Interviewee #26 thought that his race or gender had never affected his ability to obtain bonding or financing, but he feels his being a white man had negatively impacted his ability to obtain financing or bonding.

CATA #1, an Asian American trade association, said that many of the association's members do not get involved with public sector work because the bonding requirements are too high and unaffordable. This issue is something that CATA #1 said that the Association had raised with Caltrans "for years" but that Caltrans has not been able to address satisfactorily. CATA #11, a minority trade association, said bonding puts restrictions on the amount of work a contractor can receive. If you are a small company and you don't have any property, you might only get a bond for \$50,000 so this is the largest project you can receive. Even if you get a job, then you can't bid any more jobs until you finish that job. Caltrans might have a \$25 million ramp. If you can't get a bond for that amount, then you have to bid as a subcontractor. Usually the primes won't require the subs to have a bond for work under \$50,000 to \$100,000, but if it is over this then the subs usually have to provide bonding. He feels that his members ethnicity affects their ability to get bonding because as minorities they don't own a lot of assets and other property. Personal wealth is taken into consideration in getting a bond.

Interviewee #51, a Hispanic male-owned firm, stated that the majority of prime contractors require bonding from subcontractors, especially if the subcontractor is a major subcontractor, but that some prime contractors know subcontractors from their reputations do not require bonding. He said that bonding was a "real problem" and a "very difficult problem" for DBEs. For his business, bonding had not been a problem up until the last few years, when it became an issue because the company "had a couple of jobs that went south" and over which it is litigating right now.

Interviewee #7, a white female-owned firm, stated that the company had a "good relationship" with their bank. However, she did relay an experience where a loan officer was telling her that the bank would not refinance a relatively small loan because their books showed little year-end income, even though the company ran \$500,000 in payroll through the bank each year. She was able to get the loan by going to someone higher up in the bank. She also stated that it is difficult for small companies to buy health insurance and noted that the per-employee price they pay for health coverage is higher than that paid by larger firms.

A DBE firm, submitting written testimony in connection with the public hearings, stated that prime contractors "fail to understand that there are certain criteria that they may or may not need to help a DBE with, i.e. insurance and financing. . . . We may not be able to carry certain insurance limits that

are required by the contract or their own insurance requirements. And of course we will not be able to bond the project." He related one example on a Caltrans project in which they stated in the bid they would supply the standard \$ 1/2 Million insurance requirement but since it was a large contract, it required the prime contractor to carry a higher insurance limit. He stated they were removed from the contract on the basis that they could not meet the higher insurance limit, "even though those requirements are not for the subcontractor." (Written testimony submitted 4/20/07).

A DBE commercial roofing contractor, submitting written testimony in connection with the public hearings, stated: "We do have difficulty obtaining bonding for public works jobs due to our limited resources." (Written testimony submitted 3/27/07).

A DBE and 8A company, submitting written testimony, stated most DBEs are excluded from multi-million dollar contracts (speaking specifically with respect to water authorities) because of lack of capital and bonding. (Written testimony submitted 3/26/07). A certified DBE and MBE, submitting written testimony, stated bonding, insurance, and available contracts are a barrier to entering the marketplace. (Written testimony submitted 3/20/07). A small business, submitting written testimony, stated as a small business it is difficult to come up with the "cash" necessary for bonding but "the nice thing about working as a sub for these larger construction companies is that some are willing to help with bonding." (Written testimony submitted 3/20/07). A certified female DBE firm, submitting written testimony, stated she has had no problem trying to obtain insurance although she has never worked on a project requiring bonding which "might tell you how far excluded I am from being able to gain entry into some transportation projects." (Written testimony submitted 3/8/07).

A few interviewees reported that their race, ethnicity or gender had affected their ability to obtain financing or bonding. Interviewee #2, an African American male-owned firm, mentioned trouble obtaining financing and bonding for work related to the San Francisco Airport International Terminal project (more than five years ago) and feels that his troubles then were race related.

Interviewee #33, a Hispanic female-owned firm, said that she had not thought about her gender affecting her ability to obtain financing or bonding, but that she would say yes. She continued, "I'd have to have some sort of proof and I don't. I don't have any idea. You sense it sometimes, but I have no proof of that. Hopefully, I'm wrong."

Interviewee #10, an African American male-owned firm, stated that his race affected his ability to get financing and bonding "a long time ago," but that now it has "opened up" so that he does not have any problems. He feels that this was a change that occurred gradually over time.

Interviewee #59, an African American male-owned firm, routinely has problems with financing and bonding. The company does not have the financial wherewithal to get bonding on projects. He wants to emphasize that if it was easier to obtain bonding, then he would expand operations into construction. Because they have not, to date, been able to gain that funding, the company limits its operations to professional services where bonding is not required. He thinks that he has been subject to discrimination on the basis of his race with regard to obtaining financing and bonding.

CATA #1, an Asian American trade association, did not think that there are racial barriers to obtaining bonding or insurance, but said that the association's members have problems with obtaining financing because financial institutions "look at DBE firms more closely for some reason . . ." CATA #11, a minority trade association, has a member that owns a credit union and he facilitates

most of the financing for the other members. Ability to get financing depends on your credit. He said that if you've been in business for a while, your credit is probably fine. Most young businesses, he stated, have bad credit. He believes race affects his members ability to get financing, especially if their credit is not good.

An white female-owned construction business certified as a DBE since 1981 and representative of the Women Construction Owners and Executives testified at a public hearing in San Diego: "I think minorities and women have a much harder time getting capital, getting bonding and getting insurance ... in bonding ... women are still asked to have their husbands sign at the bank, which floors me after 33 years" in business. (P.H. San Diego, 3/22/07).

A white female-owned firm, submitting written testimony, stated there is "absolutely not" a level playing field for firms in access to capital, bonding, and insurance. (Written testimony submitted 3/26/07).

Some interviewees feel their status as a DBE helped them in these areas. Interviewee #75, a white male-owned firm, simply cannot afford to bond his work. He feels DBEs are less affected by bonding issues because bond companies have DBE-type goals just like Caltrans. Interviewee #40, a white male-owned firm, knows that DBEs receive special rates on financing and bonding, but she does not have a lot of experience in the area. Interviewee #39, a Hispanic male-owned firm, also indicated that the company's ability to get financing was related to its ability to get steel at competitive prices and stated that the company "wouldn't have been able to get credit at all without the DBE program."

A small DBE information technology consulting firm who testified at the Los Angeles public hearing stated "There are so many good bonding programs out there, but you have to establish a track record ... And I don't see that as an issue. I see it as building the business and getting all the right controls and accounting procedures and all those things in place first; that the actual access to money is maybe not the issue." (P.H. Los Angeles, 3/29/07)

Interviewee #39 stated that, with respect to financing, the company "do[es] pretty well by the bank." He said that bonding is "sometimes" a problem because of the company's small size. Interviewee #39 noted that sometimes a prime contractor will waive a bonding requirement for them because they are a small company and a DBE firm. Interviewee #39 said that he could not answer the question of whether the company's being a DBE firm had affected its ability to get bonding and/or financing, as he had been at the company for only two (2) years.

A few interviewees were not sure whether their race affected their ability to obtain bonding, but suspected it might. Interviewee #49, an African American male-owned firm, stated that he did not know whether his race or gender ever affected his ability to get bonding or financing, but that it was something that possibly happened. He said it would be subtle if at all since no one ever said outright that his ability to get bonding or financing was impacted by his being African American.

Interviewee #51, a Hispanic male-owned firm, said that financing is a "tremendous" problem for DBEs, and one that is exacerbated by slowness in payment from government bureaucracies and/or prime contractors. He stated that he could not answer whether his race had ever affected his ability to get bonding or financing, since the person or entity denying a bond is "not going to tell you, 'We are not bonding you because you are of a certain ethnicity or race or color or whatever[]'" but instead will "give a hundred other reasons why they do not give you the bond."

Interviewee #42, an African American male-owned firm, stated he had a lot of difficulty obtaining bonding because the bonding company was “so hard for me to work with” He stated that once he had his credit in order, “the guy he just acted like he didn’t really work with us so” he ended up doing his own self-bonding. He did not know whether race, ethnicity or gender affected his ability to obtain financing or bonding. He stated it is difficult because the “bonding people want you to have money in the bank or a lot of capital.” He stated that his goal is to be able to self-bond.

Many DBEs did not feel that their race affected financing. Interviewee #3, an Asian American male-owned firm, feels that obtaining financing is a problem for everyone, not just DBEs. Interviewee #3 stated that he had experienced no problems with obtaining financing that he thought were attributable to his race, and stated that some DBEs have trouble getting financing because of their own problems (e.g., they cannot demonstrate capability to do the work). Interviewee #46, an Asian American male-owned firm, stated that financing and bonding were issues that the company has to deal with, but he did not feel that the company had experienced any race-related or race-based barriers to its obtaining financing or bonding. Instead, he said whether a company can get bonding or financing is determined by its financial stability, and just “like everything else, your buying capacity . . . is directly proportional to . . . your financials, and you’ve got to work your way up”

Interviewee #48, an Asian American male-owned firm, stated that there were no problems, barriers, or obstacles – based on gender, race, or other considerations – with obtaining financing. Interviewee #27, an African American male-owned firm, believes the company’s ability to get financing or bonding had never been affected by his race. Interviewee #25, a Hispanic male-owned firm, stated that it is “not hard” for him to get loans for equipment and other needs since he has “pretty good credit.” He did not think that his race or gender had ever affected his ability to get financing. He said that “most of the time I’ve been approved right away.

Interviewee #7, a white female-owned firm, feels her gender has never affected her ability to obtain financing or bonding. She relayed only one experience where the company had to obtain bonding – a design and build job for the Army Corps of Engineers where the company hired and supervised construction contractors. It had to provide a personal guarantee for this bonding, however, a newer, smaller company (as opposed to someone like them who had been in business for two decades) would “have a hardship in [getting] bonding” and that “for a small company it would be almost impossible unless they do a personal guarantee for the bonding.”

Some DBE interviewees reported no trouble with bonding or financing. Interviewee #22, an African American male-owned firm, reported that his firm has had no trouble obtaining financing when it has needed it. Interviewee #23, an Asian American male-owned firm, stated that financing had not been a problem for his business operations. Interviewee #31, an African American female-owned firm, indicated that the company does not have problems obtaining this insurance or financing generally because it has a solid track record that it has established over the past three decades. Interviewee #79, an African American male-owned firm, has not had any issues with financing or bonding. Interviewee #79 has not had any issues with financing or bonding. Interviewee #11, a Native American male-owned firm has not had any problems obtaining financing. Interviewee #54, a Hispanic male-owned firm, stated that he did not have any problems obtaining bonding.

A woman-owned DBE, submitting written testimony in connection with the public hearing, stated: there does not appear to be a problem as to a level playing field for access to capital, bonding, and insurance. (Written testimony submitted 3/14/07).

A business stated in written testimony: he has found no difficulties with capital, bonding, or insurance requirements. "However, this is another area where streamlined access and minimal fees could spur more response to RFQ/RFP opportunities." (Written testimony submitted 3/12/07).

A non-DBE, submitting written testimony, stated: "It is obvious that there is a level playing field with regard to access to capital, bonding, and insurance." (Written testimony submitted 3/16/07).

Many interviewees stated that financing was difficult for smaller companies with less assets and new companies with less history, and not due to race. Interviewee #49, an African American male-owned said that the company has to get bonding for its jobs and that, though bonding was an obstacle at the beginning when the company did not have a track record, it is not a problem now that the company is well established. He said that the same was true with respect to his company obtaining financing.

CATA #2, an African American business trade association, indicated that obtaining financing was not as big an issue for the association's members as is obtaining bonding. He said that if a company has been in business, it generally has a line of credit, but that the difficulty is getting the business experience in the first place and building one's business to the point where (s)he can put up its or other assets to secure financing.

Interviewee #81, a Hispanic male-owned firm, has had issues obtaining financing, but these problems have been those characteristic to small businesses in general and had nothing to do with his race. Interviewee #29, a Hispanic male-owned firm, believes a company needs to have been in business for three (3) years or more in order to satisfy the risk tolerance for banks. He cashed out his 401k in order to finance his business.

Interviewee #54, a Hispanic male-owned firm, reported that the interest on bank loans were high and that he sometimes falls behind on his loan payments because prime contractors and others are late in paying him. But he did not think that his race or gender had ever affected his ability to obtain financing.

CATA #3, a Hispanic trade association, stated that he had had problems obtaining financing in the past and that now that he has sufficient financial resources to obtain loans, he does not have the work opportunities to make taking out these loans worthwhile. CATA #3 said that many young and/or fledgling companies have trouble with financing, and that the federal Department of Transportation's program to guarantee loans through banks was a good program but that it had been "cut back considerably." He also said that banks do not like (to make loans to) businesses with no track record and/or financial history, but that, even though banks are less likely to take risks with people of color, if one has money (s)he can borrow money. Asked if his ability to get financing had been affected by his race, CATA #3 replied that he did not know and that he did not think so, but that perhaps it did in the past.

Initially, Interviewee #2, an African American male-owned firm, had substantial problems with bonding and financing but has overcome these problems through time. He stated that when he started out, banks would not loan him money with his equipment as collateral but instead insisted on a substantial bank balance. He also mentioned trouble obtaining financing and bonding for work related to the recent San Francisco Airport International Terminal Project (more than five years ago)

and feels that his troubles then were race related. However, he stated that his company does not now have any problems with financing or bonding requirements on projects.

Interviewee #8, a Hispanic male-owned firm, stated that "[b]onding is always an issue" and that it is "99% harder on any small business . . . than it would be on a large business." He did not think that any barriers to obtaining bonding or financing were attributable to his firm being a DBE, but instead to the size of his company and having trouble finding someone to put up the money for a bond.

Interviewee #46, an Asian American male-owned firm, stated that financing and bonding were issues that the company has to deal with, but he did not feel that the company had experienced any race-related or race-based barriers to its obtaining financing (which, according to Interviewee #46, the company really does not do) or bonding. Instead, said Interviewee #46, whether a company can get bonding or financing is determined by its financial stability, and just "like everything else, your buying capacity . . . is directly proportional to . . . your financials, and you've got to work your way up."

Interviewee #64, a white male-owned firm, has not performed enough big jobs to get bonded hire than \$500,000. He feels this is a "Catch 22." He would like \$1 million bonding capacity. He is working his way up slowly – if he can do ten (10) \$100,000 jobs per year his capacity will go up.

CATA #6, a trade association representing heavy engineering contractors, said there has been some consolidation of the companies that offer bonds so for a while it was difficult due to the lack of competition. Now it has leveled out and she doesn't hear anyone complaining about not being able to get bonded. Overall, it's not about DBE v. non DBE it is about whether you can afford the bond and whether you qualify for it.

When Interviewee #18, a Native American male-owned firm, started out, it took about two (2) years to build up to the point where it could get bonding and then enough bonding for the projects. The situation is similar for financing. There are two shareholders in the company and at the beginning, they mortgaged their houses or got a second mortgage and used their own money to get started. Now, obtaining financing and bonding is not a problem because the company is very secure and banks compete for the company's business. He does not believe that his ethnicity played a role in the hurdles that he had to face.

Interviewee #42, an African American male-owned firm, stated obtaining financing has "been tough." He stated he got an SBA loan twenty five (25) years ago and he has not been able to get another direct loan from SBA. He stated you have to have a lot of assets to obtain a loan from a bank and even though his equipment is expensive, it does not appreciate in value.

A small African American owned construction company testified at a public hearing in San Diego that he did not feel there was equal access to capital, bonding, and insurance for DBE firms. He gets excited on jobs where primes offer to assist with bonding and insurance. "I think that certainly more effort needs to be put into the bonding and insurance. We had access to capital. That was not a problem for us, but bonding and insurance was." (P.H. San Diego, 3/22/07).

A representative of BRIDGE, a Native American organization, testified at a public hearing in San Diego that "getting the insurance and bonding ... it's almost impossible in a lot of cases to get that. Because I am an Indian contractor ... the only way that I can get the work is if I partner with another." (P.H. San Diego, 3/22/07).

Interviewee #1, a Native American male-owned firm, does not need to obtain bonding in his type of business. He has not experienced any barriers in obtaining financing. He stated it is more difficult when you are new. When he first started in the 90's he "couldn't buy a pencil sharpener on credit." Interviewee #2, an African American male-owned firm, had substantial problems with bonding and financing, but has overcome these problems through time. He stated that when he started out, banks would not loan him money with his equipment as collateral, but instead insisted on a substantial bank balance. However, the company does not now have any problems with financing or bonding requirements on projects. Interviewee #21, a Hispanic male-owned firm, is established so it does not have problems obtaining financing or bonding now, but he recalls that it used to be a problem.

Interviewee #6, a white female-owned firm, stated the nature of the business is such that bonding and financing are not something that the company deals with. Interviewee #16, a white male-owned firm, stated "[w]e don't really deal with that too much" because the company is "self-funded and . . . pretty cash flow positive."

Several interviewees reported that Caltrans' new insurance requirements presented a barrier to pursuing work. CATA #6, a trade association representing heavy engineering contractors, stated: "Recently, Caltrans has increased its primary and secondary insurance requirements. This has cost primes a 50% increase in their insurance premiums. Some of these people can't afford that, especially if they don't bid exclusively Caltrans projects." A lot of times the insurance company will require the sub to hold the same level of insurance as the prime. "If a small contractor cannot ... meet the insurance requirements, then the prime may not list the sub, especially if it is someone that they don't know. If they've worked with the sub before they may be willing to let him slide and not have the same level of insurance. . . From a prime [contractor's] stand point, if they're not exclusively bidding Caltrans projects they may think twice before paying 50% more for their insurance. From a subs standpoint they may not be able to afford to bid it period." Caltrans provides an exception to the heightened insurance requirements for Small Business Enterprises. She gave a subcontractor the application, but it was too difficult so he did not end up getting certified.

A female DBE consultant testifying at the Stockton public hearing listed insurance requirements as a "stumbling block in all small transit companies in California wanting to do anything with Caltrans or FTA." She noted that "big operators" want "\$10 million dollars worth of insurance for a vehicle ... we could only get \$5 million." (P.H. Stockton, 3/20/07).

Interviewee #33, a Hispanic female-owned firm, stated the company has to carry professional liability insurance for its Caltrans work and all its other work as well. She said that it was "not cheap" and cost them \$25,000 a year to carry insurance for \$2 million.

Interviewee #4, a Native American male-owned firm, sometimes has to carry air and engineering insurance (a type of liability insurance), but it is on a job-by-job basis (if necessary). He had no problems with obtaining this insurance and did not think that his race affected its obtainment in any way.

CATA #7, a Filipino trade association, believes insurance requirements are overly stringent. He said Caltrans needs to make some sort of reasonable adjustment for projects that are smaller. Right now they require \$1 or 2 million worth of insurance for both the sub and the prime on all projects.

CATA #9, an association of consulting, engineering, and land surveying firms, stated his members obtain insurance as opposed to financing or bonding. He stated "that's been another big hit on the consultant community, the smaller firms – the insurance requirements are fairly heavy and it doesn't matter what percentage of work [on the contract] you do. So you may just be doing a small piece of a larger contract, but you still have to carry \$5 million in insurance."

CATA #9 stated obtaining insurance is partly based on experience. He stated that even if a consultant is on the team that is selected, the consultant can get up to the point of contract issuance and try to negotiate insurance "they may just say well either you have the insurance or you'll not have the contract any more. You have no recourse as a subconsultant." He stated that he does not know if race, ethnicity, or gender would affect the ability to obtain insurance but if your business is located "in an area that is not the prime real estate, you maybe have a harder time getting the insurance."

CATA #10, an Asian American trade association, stated its members do not obtain bonding, but they do obtain insurance. He stated Caltrans insurance is very high. If the larger firm is doing a \$10 million fee and the sub is going to only get \$100,000 of the contract, the small firm may still have to obtain the same rate of insurance; if the fee is low, the insurance premium may take most of the profit. This is a barrier. He does not think race, gender, or ethnicity affects the ability to obtain insurance.

A white female-owned construction business certified as a DBE since 1981 and representative of the Women Construction Owners and Executives testified at a public hearing in San Diego that Caltrans recently increased its insurance requirements. She said "my insurance for the year is maybe fifty or a hundred thousand dollars cheaper than if I carry \$5 million or \$10 million. A small business can't always – even if you have the money to buy it, you can't – they will not give it to you." (P.H. San Diego, 3/22/07).

A Hispanic female-owned consulting firm testified at a public hearing that the insurance requirements on construction contracts are "excessively high." "Due to the contractual 'flow-down' provisions, subcontractors and specialty subcontractors, including DBEs, must meet the same insurance minimum thresholds which are prohibitive based not only of cost as well as history experience." She stated that this is "cost prohibitive." She further testified that contractors are "required to maintain the same level of insurance throughout the life of the project. On a number of contracts which are multiyear ... that limits their ability to bid on any other work because they've already used bonding and their insurance on that one project."

An insurance broker, submitting written testimony, stated "I have experienced problems in partnering my construction company clients with large firms performing state work due to their lack of insurance or a desire to exclude them when there is not a requirement or point advantage to doing so. This has been particularly true for the past year. . . [T]he insurance and bonding requirements are so stringent that we are asking that the State purchase master insurance policies, known as Owner Controlled Insurance Programs (OCIP's), by which small contractors are provided buying capacity at discount and charged pro-rata for the coverage. . . Our professional opinion is that OCIP's provide the best opportunity for" DBEs to access insurance. (Written testimony submitted 3/21/07).

Good ole' boy network.

Obstacle to pursuing or obtaining business:

A substantial barrier reported by interviewees, both DBE and non-DBE, in obtaining work in the public and private sectors was the perceived inability to “break into the market” due to the pre-existing relationships among prime and subcontractors. In this respect, most interviewees reported the existence of a “good ole' boy network” in the California Transportation industry. Many interviewees viewed this as an obstacle to the pursuing or obtaining work. (Interviewee #6, #7, 8, #10, #29, #31, #32, #33, #39, #43, #44, #51, #52, #57, #61, #65, #66, #70, #79, #85, CATA #1, #2, #3, #5, #6, #8). These interviewees expressed feeling closed out of opportunities because certain prime contractors use subcontractors within their own network and, therefore, do not solicit or accept bids from others. Others either did not believe there was a good ole' boy network or did not see it as an obstacle to receiving work (Interviewees #1, #34, #45, #46, #47, #48, #50, #73). Some interviewees thought the good ole' boy network was more prevalent in the private than the public sector, others thought it occurred in both sectors.

Interviewees reported they are “quite often” (Interviewee #6), “frequently” (Interviewee #8), “quite a bit” (Interviewee #10) and “a lot of times” (Interviewee #51) shut out of a job because the prime contractor already has a preferred subcontractor. Interviewee #17, a white male-owned firm, stated that because of a “good old boys club” the same group of firms get all of the Caltrans work in his area. Interviewee #40, a white male-owned firm, stated that the company is in the “good ole' boy network” because the company “has been around forever.” Interviewee #51, a Hispanic male-owned firm, could not say or know whether he was shut out because he was not the prime contractor's buddy or because of any prejudice or discrimination.

Interviewee #7, a white female-owned business, reported that she never received an RFP from certain cities. She stated it was not necessarily because they are a DBE firm, but because they are not “in the good old boy system.” She stated that it is hard to maintain relationships with project managers at large prime contractors (in order to get what DBE or small business work is available) because these people often move from one firm to another and those firms already have particular subs in their own network that they use. Interviewee #21, a Hispanic male-owned firm, stated that there is a strong “good old boys” network that is hard to break into. It seems to Interviewee #21 that despite their long established business, there are some jobs that the same companies always receive.

A white female-owned professional services provider in the construction management field testified a public hearing in Los Angeles that “There's still very much an old boy network, I'm sorry to say. And if you're not an old boy, you're not in that network.” According to this DBE, “there's a lot of information that you don't get.” At the “golf course meetings, the information ... flows.” She believes the DBE Program “allows us to have an equal playing field.” (P.H. Los Angeles, 3/29/07).

Interviewee #70, a white male-owned firm, stated that there is a very strong good old boy network, especially in Eldorado County. “Oh ya, well I worked for Joe before and his job was good to me, we went fishing, so I'll give him this job.” He stated that it is not difficult to get into the good ole boy network but if you ever do something wrong it is hard to get back in.

Interviewee #13, a Pakistani male-owned firm, found it “very difficult to break in” and get work from prime contractors on Caltrans projects, mainly because the prime contractors always use the same subs and “don't see any reason of cultivating relationships [with and] providing jobs to new DBE

firms when they got nothing to gain financially in doing that." Interviewee #18, a Native American male-owned firm, stated that certain contractors have certain people they will work with and it is not always price that makes a difference. Interviewee #42, an African American male-owned firm, stated the good ole' boys network "happens all the time."

CATA #9, an association of consulting, engineering, and land surveying firms, stated his members have experience being closed out of an opportunity because of the good ole' boy network and there are "certain primes that subs won't even bother talking to because they know they won't be considered." He stated this happens in both public and private sector. CATA #10, an Asian American trade association, stated that some of the small firms have a good relationship with some larger firms and in that case the larger firms will use those small firms no matter what. Without goals, he believes, primes will use the firms with whom they have the best relationship or who they think will give them the lowest cost.

According to CATA #11, a minority trade association, the primes working for Caltrans have been working for Caltrans for many years. Most of them have bought all their equipment and their own plants. If they need a supplier or a subcontractor they use the same one they have always used so "they don't have to think or worry or try something new." CATA #1, an Asian American trade association, said that it is difficult to get on a Caltrans job as a subcontractor, because you have to know the primes and it takes years to build these relationships. He also said that generally primes already have their teams formed and are not looking for new and different DBE firms.

An African American DBE trucking company who testified at a public hearing in San Diego would like Caltrans to encourage primes to use different DBEs. Caltrans should tell them to "use so many of these guys, just don't put us with all your friends. Because it's a network system out there, and if you're not a part of that network system, you're not going to get it." (P.H. San Diego, 3/22/07).

An African American DBE consulting firm testified at a public hearing in San Diego that the "number one thing" that "puts DBEs at a disadvantage is access to decision makers." The project engineers tell the large prime contractors about opportunities early on "maybe they go out to drinks every once in a while ... or see each other on the golf course." (P.H. San Diego, 3/22/07).

A representative of BRIDGE, a Native American organization, testified at a public hearing in San Diego that "As for barriers that I can see for Native American companies ... for all disadvantaged companies is to be able to work with the prime contractor for them to really take you serious. Because they have a good ole' boy system, and it doesn't matter if its' a white company, a white woman company, it's still there. And unless you can have a connection with the prime, it's hard to get that work." (P.H. San Diego, 3/22/07).

Interviewee #11, a Native American male-owned firm, is familiar with the "good ole' boy" network, but perceives that it is more of an issue with smaller agencies, e.g., the cities, than Caltrans. These smaller agencies say that it has to do with which companies they are comfortable working. Caltrans is "fairly good about being very stringent in their standards."

A DBE commercial roofing contractor, stated: "We have BEEN treated fairly by most prime contractors we currently have business contact with. (Written testimony submitted 3/27/07).

A woman-owned DBE stated that they do not believe race, gender, or ethnicity is a problem, "[H]owever, I think there is a strong tendency to still lean toward a 'good old boy' network where some vendors are favored over smaller or lesser known vendors who are trying to get established with Caltrans." (Written testimony submitted 3/14/07).

A woman business owner stated, "Attending pre-bid meetings tends to be fruitless. The primes appear to know the firms they will work with before the meetings begin. Their attendance appears to meet a pre-bid requirement only." She stated she was told by a business counselor, and "it is my perception and his too, that it doesn't make sense to call oneself disadvantaged. It is tantamount to calling myself a loser before I even make it out of the gate." (Written testimony submitted 4/15/07).

DBE prime contractors prefer to use DBE subcontractors:

Some DBE firms explained that they were more likely to use their DBE friends as subcontractors on their projects. CATA #11, a minority trade association, reports that his DBE members tend to use DBE subcontractors. "People tend to use people that they are comfortable with." "A DBE contractor would tend to gravitate toward the DBE contractor ... they talk the same language, they understand each other's philosophy." Very rarely, he said, would a DBE subcontract to a majority owned contractor.

A white female-owned professional services provider in the construction management field testified at the Los Angeles public hearing and reported "we make every effort to include colleagues or small businesses. And we make an effort to make sure they have work on our team because we know what that's like." (P.H. Los Angeles, 3/29/07).

Interviewee #69, a white male-owned trucking company, stated that there is a network of Hispanic business owners that pass the work to each other. The dispatchers are Hispanic and therefore more likely to call the Hispanic truckers. As a white male, he feels it has been more difficult to get work because of this network.

CATA #2, an African American trade association, indicated that neither he nor his association's members had experience soliciting bids from or utilizing DBEs on Caltrans projects because, he said, they are "almost always" subcontractors on work for Caltrans. He stated that for work for other agencies, the Association's members almost always use other DBE firms as subcontractors (or whoever has the expertise if there is no goal). He also stated that in the private sector his company and other of the association's members try to use other DBE firms if they can but also use non-DBE firms in situations where other DBE firms are unavailable to do the work. He gave as an example his company's using non-DBE firms to haul its products because there are no DBE firms that own trucks to haul the products. According to CATA #2, people like to work with people that look like them and/or with whom they are comfortable. The association's members subcontract work to other DBE or "non-majority" firms, and the association encourages small firms to team and work together because it gives them more financial and equipment strength and thus allows them to land bigger contracts.

Natural and unavoidable:

Some interviewees feel that selecting business partners based on relationships was natural and unavoidable. Interviewee #79, an African American male-owned firm, stated that networks are a fact of life and that people will always want to work with the people with whom they have built relationships. Interviewee #52, a white male-owned firm, stated that being closed out of

opportunities because you are not in a certain network happens "no matter what you do." He also said that he uses the same subcontractors for his work and asked why he (or anyone else) would want to disrupt others' networks. Interviewee #66, a white male-owned firm, said that it "occasionally" happens that he is closed out of an opportunity to work because there is a good ole' boy network in place, but said that "it . . . works both ways too" and he sometime receives work because of a relationship.

Interviewee #46, an Asian American male-owned firm, said that "every contractor has . . . the people that they're comfortable working with." He did not feel that prime contractors chose not to use certain subcontractors because those subcontractors were DBEs but rather because the prime contractor went with someone "in the comfort zone of . . . their own personnel." CATA #7, a Filipino trade association, stated that firms prefer to work with companies with which they have worked in the past, but that once you establish a relationship with the firm, you get more work. He did not believe the network is race-based, but rather relationship based.

Interviewee #45, white male-owned firm, stated that "other than mandatory pre-bids," he did not see a good ole' boy network – "all you have to do is be low bidder and have a bid bond." CATA #6, a trade association representing heavy engineering contractors, stated that contractors, like all people, prefer to use subcontractors that they have worked with in the past, because they know the quality of their work. In his opinion, if there is no significant price difference, they may use the subcontractor they are familiar with. However, if there is a significant price difference, they will go with the low bidder.

CATA #2, an African American trade association, stated that the association's members were often closed out of opportunities to work as subcontractors because prime contractors use someone within their own network. He stated that it is understandable that a company would want to use a firm that it has used before and knows can do good work. The problem, said CATA #2, is that prime contractors' past experiences are almost always with white male-owned firms. The DBE program gives DBE firms a chance to "get into the arena" and show their skills to and develop relationships with prime contractors.

Interviewee #1, a Native American male-owned firm, is familiar with the good ole' boy network but does not believe it affects his ability to obtain or engage in business. When a prime contractor contacts a subcontractor about a Caltrans job, he assumes "that they have some kind of history with a subcontractor." Interviewee #20, an Armenian male-owned firm, heard a friend tell him that he lost a project to white firm because of the "old boy's network" but the exact reason was unclear. Interviewee #54, a Hispanic male-owned firm, said that he had been closed out of opportunities to work as a subcontractor, not necessarily because a prime contractor used a subcontractor within its own network, but because the big prime contractors "do everything they can in-house." Interviewee #56, a white male-owned firm, stated that the "good ole' boy" network is alive and well in different parts of construction, but not in the industry's mainstream.

Bid shopping.

Many interviewees reported they had experienced bid shopping by prime contractors.

Interviewee #1, a Native American male-owned firm, said he does have a lot of pressure to lower his prices. He said that with the first subcontract he did for Caltrans, the prime contractor "basically said here are the prices, take it or leave it." Interviewee #3, an Asian American male-owned firm, has

experience with and knowledge of bid-shopping, and for this reason got out of the sub-contracting business (because prime contractors would try to shop numbers and beat down prices on the backside).

Interviewee #8, a Hispanic male-owned firm, indicated that bid shopping is something that "happens frequently," usually after prime contractors are awarded a contract. Interviewee #16, a white male-owned firm, stated the company had experiences with bid shopping by prime contractors after a contract had been awarded, but that these experiences had been in other states (in California, Caltrans purchases the product directly from the company).

Interviewee #26, a white male-owned firm, gave a \$5,500 sub bid that was the low bid for underground work on a construction project. He called around to other contractors with whom he had bid (but who were not awarded the job) and also called the general contractor who was awarded the job. The prime contractor told Interviewee #26 that he was not chosen as the subcontractor on this contract because the prime needed to meet DBE goals. When he questioned the prime further, he discovered that the prime had told the DBE firm that its bid was not the lowest bid and that they would have to do the job for a lower price if they wanted to actually get the work. According to Interviewee #26, the DBE then lowered its price. Interviewee #26 feels that "too many general contractors are doing bid shopping[]" and that "[t]here's too much incentive there [in the DBE program] for generals to break the law in that area . . . in bid shopping." He indicated that such bid shopping occurred only when prime contractors were trying to meet DBE goals, because generally – i.e., in the private sector – prime contractors do not bid shop because it negatively impacts their reputation with other contractors.

Interviewee #33, a Hispanic female-owned firm, stated that bid shopping was something that "happens a lot," that the company "get[s] cut down sometimes[,] and that this often happens without the company even being asked. She said that this cutting down usually happens after the prime contractor is awarded the contract or during negotiations. Interviewee #33 also said that there were times when she had "called their bluff" and had the primes tell her they were going to use someone else, only to come back months later saying that they wanted to use her company after all.

Interviewee #34, a white male-owned firm, had no experience with or knowledge of bid shopping. He attributed the lack of bid shopping to the way that services are contracted out in his Caltrans district, saying that typically selections are made on the basis of qualifications and that the actual bid is not prepared until after the firm has already been selected.

Interviewee #49, an African American male-owned firm, said that bid shopping was something that happens, "frequently" particularly on larger jobs and for Caltrans. He also said that because of the practice or threat of bid shopping, firms bidding as subcontractors on larger jobs sometimes are forced to submit bids that are higher than they otherwise would be, since these subs can expect to be bid-shopped by the prime.

Interviewee #81, a Hispanic male-owned firm, feels primes do shop DBE bids around to their construction buddies because there's no way that a big company could undercut his bid without knowing what it was. However, he doesn't feel that DBE bids are being shopped around because of the DBE's race, but rather because the primes get used to working with the same people. The large contractor gets used to working with a large electrical company, and they want to keep it that way.

He's not being passed over for jobs because of his race, but it's just hard to break into these personal relationships companies have built with each other.

CATA #1, an Asian American trade association, stated that he had heard about bid shopping from the association's members but had no personal experience with it. He said that the association had been talking with Caltrans about bid-shopping as well, and that Caltrans had taken a strong stance and made "good progress" in this area. CATA #2, an African American trade association, said that though he had never been bid-shopped, a lot of the association's members had, especially on construction contracts and usually after the prime is awarded the contract (when the primes also try to substitute their subcontractors and tell Caltrans that the sub originally listed did not want to do the work). CATA #2 said that bid-shopping, though it still happens, was a bigger problem in the 1990s than it is today (namely because Caltrans had stopped allowing a 10-day turnaround or review period after awarding its contracts to primes) and was something that the association had addressed with Caltrans through discussions on the Small Business Council.

A Hispanic female-owned consulting firm explained, at a public hearing in Los Angeles, that contractors sometimes bid shop out the DBEs number to "to their own subsidiary companies to bid against DBEs" so that they can "justifiably deny participation" based on price. (P.H. Los Angeles, 4/4/07).

Bid manipulation/different bid criteria.

Very few interviewees reported they had experienced bid manipulation. Some interviewees had heard of the practice but had no personal experience. Interviewee #5, a white female-owned firm, stated that he knows of bid manipulation, but that he did not know who was engaged in this practice. Interviewee #21, a Hispanic male-owned firm, has heard of bid manipulation but stated that his firm has no personal experience with it.

Interviewee #33, a Hispanic female-owned firm, described a situation where her company submitted two RFPs on a job (she did not know if Caltrans funding was involved), one for urban design and streetscape. She feels that her company had the best chance of getting the streetscape job, since it had won the previous streetscape job four years earlier. But, according to Interviewee #33, the two proposals were combined after they had been submitted separately, and the company did not get the streetscape job. Interviewee #33 said that had she known the two proposals would be combined, she would have pursued a different strategy.

Interviewee #46, an Asian American male-owned firm, relayed an experience where his company bid as a prime but then lost the bid and was given as the reason that the company had not correctly satisfied the job's DBE requirement. Interviewee #46 stated that this job was then re-bid, but he did not know whether or not the awarding of the job to his firm was protested only so that the job could be re-bid. Interviewee #46 did say that it was a common practice for agencies and districts to re-bid their jobs "multiple times just to get the price down." He did not think that this re-bidding had anything to do with "the minority status or requirements[.]" but that it is "just their technique." He also stated that he had "[n]o proof on it [this practice of re-bidding,]" but did feel "that's what they do all the time."

Interviewee #54, a Hispanic male-owned firm, relayed an experience about two years ago on a private sector job in Tracy, California where there was attempted bid manipulation, and they said that this was something that had happened to them "a couple of times." Interviewee #5, a white female-owned firm, believes it experienced bid manipulation on a recent project where the specifications for the project were not clear. Interviewee #5 made some suggestions about the materials, and the company requesting the bid incorporated the suggestions to save money, and then re-bid the project. Interviewee #5 did not receive the work on the second bid.

Interviewee #65, a white male-owned firm, has knowledge of bid manipulation/kickbacks, especially on Caltrans work where brokers and truckers have been involved.

CATA #1, an Asian American trade association, said that bid manipulation was not so much a problem compared to prime contractors wanting to substitute their subcontractors after being awarded a contract. CATA #1 said that the association had addressed this issue with Caltrans for the past decade, and that though Caltrans had made efforts and "some progress" to mitigate this problem, there is "still a long way to go."

A small African American owned construction company located in Chula Vista testified at a public hearing in San Diego, that two years ago he attempted get a contract on the South Bay toll road. The DBE requirement was in the double digits. Over the holiday, he put a team together, which included the required number of DBEs, and prepared the bid. When the solicitation came out the requirements had changed. He had to put a whole new team together. The company was not ultimately selected. He stated that the bid was not opened like it normally is but rather, he had to inquire as to whether he got the job. "After being treated the way we were treated in the bid, after them knowing that we were going to be bidding on it and then changing the specifications, and the specifications were changed to that extent that – that you – it was – it was very difficult." (P.H. San Diego, 3/22/07).

A DBE firm, submitting written testimony in connection with the public hearings, stated "while all prime contractors are required to solicit DBE [participation] there is no requirement for them to use us. I have been bid peddled and/or underbid by fractions of a percentage and then all the prime has to say is, we tried, but could not make the program work." He stated that on several projects, "even though we were asked to bid a project, and we were either low or within [\$]1,000.00 of the low bid (possible bid peddling) we are not listed as the sub-contractor." (Written testimony submitted 4/20/07).

Fronts.

Only a few interviewees reported direct knowledge of "fronts." Most interviewees reported no knowledge of "fronts." Some of these interviewees stated that while they had no direct knowledge, they suspected that they occurred.

Interviewee #3, an Asian American male-owned business, noted that he believes he is one of the few DBEs in California that is "legit," and that many DBEs are getting a "pass" simply because they are certified as such.

A large general contractor at a public hearing in Eureka stated that "there are a lot of illegitimate [DBEs] that are – almost every bid that we're preparing, I will get a phone call from somebody claiming to be a DBE, who just wants to know how much money I want to pass through for a markup of five percent." (P.H Eureka, 1/23/07) Interviewee #43 was solicited to be a front about six (6) months ago.

Interviewee #4 believes that fronts will exist in any program that is DBE- or minority-based, but that it is probably more prevalent in construction work than in consulting. CATA #7 believes it is hard to monitor in the consulting realm since the president does not need to be the architect or engineer. Companies can put up a minority president who has very little control.

Interviewee #75, white male-owned firm, has seen WBE and MBE shams. Some so-called "women" owned businesses are in fact fully operated by the husband or two (2) friends decide to put the business in her name and file for certification with the understanding that the female friend will take no part in the business. Another example is where two individuals join in an informal partnership in which the minority will file for certification and the white man will be the actual person in charge. According to Interviewee #75, everyone knows this sort of thing happens, and that it happens a lot.

A non-DBE, submitting written testimony, stated there is a DBE company and the owner owns multiple companies, and he questions their authenticity as a DBE/qualified 8A. (Written testimony submitted 4/4/07).

Some viewed fronts as undermining the DBE program. Interviewee #14, a white male-owned firm, feels that DBE-fronts were very common and cited it as one of the main reasons why the Program was not terribly worthwhile. He believes many of these companies have gone out of business since the suspension of the goals as their sole reason for existing was to take advantage of the DBE Program.

Interviewee #29, a Hispanic male-owned firm, said that fronts injure the DBE Program. And that because of fronts prime contractors may question whether he is also a "sham." He stated that in California, the "responsible managing employee" designation allows this to happen because it allows companies to use other companies' licenses to bid on work.

Some interviewees thought Caltrans did an adequate job policing for fronts and saw the existence of fronts declining. Interviewee #51, a Hispanic male-owned firm, stated that there were "a lot" of DBE fronts at the beginning of Caltrans' DBE Program and certification process, but that Caltrans had done a "very good job of investigating those people" and now does a better job of policing DBE fronts.

CATA #1, an Asian American trade association, encountered fronts "quite a bit" in the past, especially in the construction field. He gave an example of concrete mixture firms that would set up DBE firms to get their subcontracts and that would use these DBE subs as brokers to get supplies. He thought that the government had cracked down "quite strongly" on DBE fronts, but he said that they still surface. CATA #2, an African American trade association, said DBE fronts were more common in the 1990s than today, and thought the practice had gone more underground since then (in part because some people in San Diego went to jail over this).

Interviewee #75, white male-owned firm, does not believe that Caltrans, or any state agency, can prevent sham DBEs. He stated that the state has no formal mechanism by which they can verify that

the individual requesting certification will be an active leader of the company. However, Interviewee #75 believes that in the end it does not matter since the only time DBE status is going to help is when the bids are close, which is not often. Interviewee #75 doesn't think there is any formal reporting mechanism for DBE shams and questioned whether they were even against the law. Interviewee #76 does not believe fronts have been a problem in the last five (5) years, and since the suspension of the goals he says there is no real money in the schemes.

Many interviewees reported that female fronts are more common than minority fronts and that these fronts most often occur in the context of an owner putting the business in his wife's name. Interviewee #6, a white female-owned firm, said that he knew of DBE 'fronts' (several of them large companies) where wives were given 51% or more ownership of a company that their husbands actually owned and ran. Interviewee #26, a white male-owned firm, said "too many guys were just giving their wives an extra 2% [ownership share]. You know it just wasn't working the way they wanted it to." Interviewee #31, an African American female-owned firm, said it is not at all uncommon to go to meetings with WBEs and "never see the woman." Interviewee #33, a Hispanic female-owned firm, knew of "a couple of women owned businesses where the woman is not really involved."

Some interviewees had knowledge of minority fronts. A DBE firm at a Stockton public hearing knew of an African American front "they had a driver, which was African American, that was driving for them and they sold him a truck and they put all the work under his name . . . I am planning to go in there and get him decertified." (P.H. Stockton, 3/20/07). Interviewee #26, a white male-owned firm, stated that DBE fronts were "rampant." According to Interviewee #26, "there were a lot of people who brought in partners just . . . [so] they . . . could get their company to meet the goals of [the DBE program]," and "they looked like . . . 51% owners, but in reality they weren't." With regard to businesses owned (or at least nominally owned) by persons of color, Interviewee #26 stated that he knew "too many people that suddenly became general engineering contractors because some big corporation took them under their arm and said, 'Hey, you're going to be our minority.'" He spoke of one contractor that participated in such an arrangement but was "really . . . just an employee of theirs [the corporation] so that they could meet the [DBE] goals all the time without putting in all the work to meet the goals." He indicated that the contractor, under this arrangement, received a share of the profits that was lower than that of his share of the ownership. He also described arrangements under which persons of color were brought into larger firm for a period of five (5) years to learn the business, but with the understanding that after these five (5) years they would start their own firm that would be a DBE that worked closely with that larger firm in order to satisfy its DBE goals.

Interviewee #69, a white male-owned firm, reported that non-certified companies will take racial minority employees, help them start their own company, and get them certified. The newly certified DBE will use the non-certified company's equipment, manpower, etc., and in return the non-certified company gets to bid jobs as a DBE. The two companies split the money. He says minority status automatically gets you more money. CATA #3, a Hispanic trade association, said "I think they're around . . ." He said some DBE fronts eventually become legitimate, meaning, for example, that the person who nominally runs a business actually learns it. "We wonder sometimes about certain ones, but it's hard to know. It's really up to the agencies to do their homework."

A white male-owned construction business stated, at a public hearing in Redding, "when the DBE program was getting started there were so many scams being set up about, well, you just send us the

bill and we'll buy the pipe, not doing anything other than processing paper ... we need to do whatever we can to avoid that occurrence." (P.H. Redding, 3/29/07).

An African American male-owned small printing business stated, at a public hearing in Los Angeles, "if you go back 15 years ago ... most of the small business in this country ... were managed, owned, operated by men. If you fast-forward ... today those businesses are run by women ... in most cases ... women are the wives of the men that ran them before." (P.H. Los Angeles, 4/4/07).

False reporting.

Very few interviewees reported they had experienced or heard of false DBE reporting by prime contractors. Very few interviewees reported any knowledge of this practice. Interviewee #40, a white male-owned firm, thought it would be difficult to get away with false reporting on a public works contract. Interviewee #33, a Hispanic female-owned firm, had no knowledge of false reported stating "[y]ou don't question that."

Interviewee #42, an African American male-owned firm, stated that "[t]hey have been coming down hard on licensed contractors out here so that really hasn't [happened any] more to me." CATA #10, an Asian American trade association, stated his firm has been named as a subcontractor on a contract but after the prime is awarded the contract they do not hear anything. That happened pre-Caltrans race-neutral program.

Anecdotes Regarding Race, Ethnicity, and Gender

Perceptions regarding whether race, ethnicity and gender affects ability to engage in business in the California transportation industry.

Negative effect:

Few minority or female-owned businesses feel that race, ethnicity, and/or gender negatively affected their ability to obtain or engage in business. CATA #1, an Asian American trade association, stated that there are "serious" but subtle personal barriers to getting work in both the private and public sectors and with all public agencies. These barriers were not obvious but instead existed deep in people's minds and hearts. According to CATA #1, the problem is not so much that people do not like DBEs, but that non-DBE firms do not trust DBE firms because they do not know them. Interviewee #44, a Middle-Eastern male-owned firm, feels there are barriers to pursuing work that he believes are due to his race. He has not experienced blatant discrimination, but he hears things like "we need someone with more experience" or what he views as other "sham" excuses. He feels that frequent change orders may be related to his race. He never files complaints because he cannot afford an attorney.

Interviewee #7, the Hispanic co-owner of a white female-owned firm, believes race affects his ability to engage in business in that he does not receive certain RFPs. Interviewee #7 spoke of the attitudes of some of the older engineers at Caltrans who were hesitant to accept women and people of color coming to work as Caltrans engineers. Interviewee #7, the white female-owner, stated that one time while working on Caltrans project an engineer put a hand in front of her face when she was trying to explain something to the Caltrans project manager. Interviewee #7 feels that things would change "once this kind of generation is gone" and more Hispanic and Asian engineers filled the ranks at Caltrans.

CATA #5, a trade association representing subcontractors, stated: "A lot of times the disadvantaged contractors or minority contractors may not have had the benefit...the construction industry is primarily white males from 30 to 60. Lots of things get done with back slapping and who knows who and if you are not in that group then you mind as well not come to the party." Contractors prefer to work with their "friends." She believes Caltrans could encourage contractors to use DBEs by reinstituting the mandatory goals. "Price is a very strong drive...but if [a minority owned firm and a majority owned firm] had the same price they would go with the person they felt comfortable with."

Interviewee #36, an African American male-owned firm, feels that there is definitely racism amongst general contractors but that the easiest way to deal with the problem is not to work with racists. He seemed confident that there were enough non-discriminatory general contractors out there to provide ample business opportunities for him.

A minority owned business who submitted written testimony stated "because of racial and ethnic discrimination [our company] has been excluded from many private sector opportunities. We believe that the reason for this disparity is complex, rooted in historic and contemporary inequities." (Written testimony submitted 3/17/07).

A female certified DBE firm submitting written testimony stated "there are not just difficulties in bidding projects as primes and subs, it is to the point where nothing short of an outright set-aside contract in conjunction with litigation is going to change the mindset and negative attitudes of the staff working in the transportation industry." She stated that "based upon my gender or status as a certified DBE firm, however you want to put it, we are treated like an old shoe that 'should not be at the table' and 'would not be at the table' if there wasn't a goal to meet or a client who specifically requested us." She stated "no one is going to give a woman a large transportation project." (Written testimony submitted 3/8/07).

CATA #11, a minority trade association, believes his race affects his ability to obtain or engage in business. "It happened yesterday ... when I walk on a job site everyone wants to know what I'm doing there ... if an older white guys walks onto a job he could walk all the way through it and no one would ask him anything ... but once you get there and they know who you are then they aren't going to say that." "It's just human nature ... they already have an idea about certain people ... you have to go in there and prove yourself right off the bat ... show them you have some credibility and talk with some sort of sense and it gets smoothed over a lot."

Interviewee #70, a white male-owned firm, has heard people make comments about foreigners coming here and working for less and getting better benefits than people who were raised here.

A white female-owned construction business certified as a DBE since 1981 and representative of the Women Construction Owners and Executives testified at a public hearing in San Diego "if you ask the question is there discrimination, I have to say yes, yes, yes. There is many, many difficulties and barriers to women and minorities. And I have to tell you that without any race-conscious measures, government agencies experience sharp declines in participation ... when there is no goals on projects, it reverts back to the good ole' boy group that's always been there." She further testified "construction is a traditionally male-dominated field, and we have had to climb many walls." (P.H. San Diego, 3/22/07).

A WBE, submitting written testimony, stated that she worked for a competitor in San Diego for sixteen (16) years and the new owner told her they "didn't want a woman in Management [because] they thought contractors like to deal with men, point blank." She stated that she thought if she sued she was "sure if I did I would never work in construction again." (Written testimony submitted 1/26/06).

A Hispanic woman-owned engineering firm, stated that without a DBE or similar program, DBEs do not have a chance to participate in State contracts. She went on to say, "Discrimination still exists in the heart and, thus, hard to prove, but I assure you, discrimination remains ALIVE AND WELL." (Written testimony submitted 3/8/07).

A certified DBE, submitting written testimony, stated "Although discriminatory practices are prevalent in the contracting industry, it is practically impossible to prove that the discrimination is based solely on considerations of race, ethnicity, and/or gender." (Written testimony submitted 4/12/07).

Some white male-owned firms feel that their race negatively affected their ability to engage in business. Interviewee #65, a white male-owned firm, believes that his race has affected his ability to engage in work with Caltrans. He feels that he has been intentionally discriminated against, especially when the trucking brokers came on board. Because there were not many white workers in his industry when he was doing Caltrans work, he was looked down on and treated as though he was a minority. He thinks he is passed over by prime contractors who are looking for DBEs to fill a quota. As to other agencies and in the private sector, he does not think that he has been discriminated against on the basis of his race. Interviewee #26, a white male-owned engineering contractor, discussed an experience he had in 1991 when Caltrans awarded a job in Humboldt County to a DBE firm whose bid was higher than his (\$42,000 compared to \$28,000).

Interviewee #26 feels that the award was "shocking" and "ridiculous." He called Caltrans to explain that he was unable to find certified subcontractors in Humboldt County and that he, as a taxpayer, did not think "that people are going to want to be paying an extra two or three thousand dollars for two guys to come up from Sacramento" to do the job. He recalls that the person at Caltrans told him that "if people don't meet goals, they don't try hard enough." He stated that he could "tell by the way . . . [he] was talking and . . . by his voice and different things that [he] . . . was a minority." Interviewee #26 stated that this experience "put a sour taste in [his] mouth about the [DBE] program[.]" and that it was "one of the big reasons why [he] stopped bidding [Caltrans'] jobs"

Some of these non-DBE firms feel they have lost work to DBEs. A non-DBE submitting written testimony stated it receives less work (starting in the 1990's) due to the 8A program and minority set-asides. (Written testimony submitted 4/4/07). Interviewee #55, a white male-owned firm, stated that, "if [his] company wants to do a public works project . . . [he's] going to take that opportunity to a minority business and [he's] going to partner with that minority business because [he] knows at that point [he's] going to have a better chance if it's one [he] really wants, and that's unfortunate because that adds . . . a whole other layer of administration expenses." Interviewee #34 said, "I may be able to think of some instance where our biologists weren't used because they had to use biologists from a DBE firm, but I can't think of any examples. I mean, I think you'd be hard pressed to say that you're at a disadvantage for being Anglo-Saxon."

No effect:

Some minority and female-owned businesses did not feel that race or gender affected their ability to engage in business (Interviewees #1, #4, #6, #11, #20, #27, #29, #35, #42, #48, #54, #61, #81, CATA #7). CATA #7, a Filipino trade association, believes DBEs are able to compete fairly with small non-DBE businesses, but not large non-DBE or DBE businesses. Interviewee #3, an Asian American male-owned firm, stated that his race had never affected his ability to obtain or engage in business, either with Caltrans, prime contractors, other public agencies, or in the private sector. While he is sure that "discrimination" happens, he simply refuses to work for or with those people.

Interviewee #4, a Native American male-owned business, has been working in the construction industry since he was 16 years old. He feels that others in the industry have been very helpful in assisting him set up his business and make it successful. He thinks he may have received this help *because* he is a Native American, but stated it might be different for people trying to get a footing in the industry today. Interviewee #1, another Native American male-owned firm, does not think his race affects his ability to obtain or engage in business. He stated he thinks his gender may be an advantage "although it's hard to say for sure, but I would assume some advantage," however, he feels it is probably limited to the private sector.

Interviewee #6, a white female-owned firm, does not feel her gender has affected her ability to engage in business. Interviewee #67, a white female-owned firm, said that, though she worked in a male-dominated field, she did not ever feel discriminated against. Interviewee #32, an Asian American female-owned company, did not believe her race or gender affected her ability to obtain or engage in business in either sector.

Interviewee #27, an African American male-owned firm, stated that his race had never affected his ability to get work from Caltrans or anyone else, either in the public or private sector. He did not feel he had ever been closed out of an opportunity to be a subcontractor on a job because of a good ole' boy network. According to Interviewee #27, he and his company have been "treated pretty fairly." Interviewee #79, another African American male-owned firm, does not feel his race has affected his ability to obtain work in the transportation industry. He noted that he has a very "white" sounding name and thinks this makes a difference in his attempts to secure contracts. However, a prime has never refused to work with him simply because he is African American.

Interviewee #29, a Hispanic male-owned firm, does not believe that his race has affected his ability to obtain business, but stated that his biggest hurdle is being an unknown. A small minority company submitting written testimony stated that business is fine and that 90% of his work is in public works with 60% of that as a general or prime contractor. (Written testimony submitted 3/12/07).

Although Interviewee #18, a Native American male-owned firm, does not believe that ethnicity or gender affected his ability to engage in business with Caltrans or with other public agencies, the language barrier has been a problem with some subcontractors which he was able to work through.

A minority owned firm submitting written testimony stated that "having provided supplier services to DOT, Caltrans on several limited-content training contracts, I have found no evidence of having been treated unfairly based on race, ethnicity, or gender." (Written testimony submitted 3/12/07). Interviewee #13, a Pakistani male-owned firm, stated that he had never been discriminated against because of his ethnicity, and that he had never benefited from the fact that he is a Pakistani.

An African American male-owned small printing business testified, at a public hearing in Los Angeles, that "the discrimination that continues today has nothing to do with race. It may very well have something to do with gender. I do think that women have an unfair advantage in this process" due to female fronts. He went on to state "I don't believe there's a lot of racism existing in these programs anymore ... we got rid of the racist system, and now we've got a system of cronyism. And all of us are not cronies." (P.H. Los Angeles, 4/4/07).

Positive effect:

Some minority firms feel that their race helped them get business (Interviewees #19, #46).

Interviewee #19, a Hispanic male-owned firm certified as a DBE with Caltrans, stated that he has not seen any direct correlation between his race and his ability to obtain business. He is sure that it is a factor, however "it works both ways." He named his company with his surname so that it is apparent that the company is minority-owned. He does not know of any companies that have not called him because of it, but if that is the case then it just "weeds out" calls that will not result in jobs. He believes he has received calls from people who have felt more comfortable dealing with him and probably called him because of the name of the company. Interviewee #46, an Asian American male-owned firm, did not think that his race had ever negatively affected his ability to obtain or engage in business with Caltrans or anyone else. In fact, said Interviewee #46, "it's been just the opposite to be honest with you" because if there is a DBE requirement on Caltrans or other work, DBE firms are sought out for work.

A Native American DBE, stated "The greatest strength of this [DBE] program is the education that is available to all qualifying participants." (Written testimony submitted 3/20/07).

Not sure:

Some minority or female-owned business were "not sure" whether their race, ethnicity, and/or gender affected their ability to engage in business, but suspected it had some impact.

Interviewee #2, an African American male-owned firm, stated that when he started out in 1963 his race was definitely an issue, but that today it is not. He said that when he started out, he felt that he had to be better than the next guy in order to compensate for his race. But since he has managed to excel at his work, race had not been an issue. He said that he felt that his business connections were sufficient to generate work for the company and that people remembered him and solicited him based on the high quality of his work and excellent reputation of the business. However, for those just starting out, he was not so sure that race would not be a factor, even today.

CATA #3, a Hispanic trade association, said it was "hard to say" whether or not race or gender had ever affected his members' ability to get work. He stated that Hispanics were not well represented in Caltrans work, and that District 7 should focus on bringing in more Hispanics, both internally within Caltrans administration and staff and in Caltrans contracting and procurement practices, especially in the professional services arena. CATA #3 did not feel "militant enough" to press this issue with Caltrans or the District Director and that, outside of the above, he did not know about race affecting his members' ability to get business.

Interviewee #31, an African American female-owned firm, answered, "I would never know that ... things are really subtle now, and it is not overt anymore. It is pretty much you go into a meeting and you can kind of tell by body language whether you're going to be accepted or not. Our biggest

problem is getting our foot in the door, because once we get our foot in the door and we can show that we do a good job, then it is a marketing issue. But getting the foot in the door is tough."

Interviewee #51, a Hispanic male-owned firm, stated that he could not answer whether his race had ever affected his ability to get work with Caltrans or anyone else. He said that, "hell yes," there is prejudice in the world and that "anybody that thought there is not is lying . . ." but that he could not answer whether this prejudice had affected him, and he chooses to believe that it has not. Interviewee #51 stated that it was difficult for anyone to break into the California transportation industry, especially minorities.

Interviewee #5, a white female-owned business, stated that gender had affected her ability to engage in business with Caltrans because she was de-certified in the 1990s. She did not feel that gender affected her ability to engage in business with prime contractors, with other agencies, or in the private sector.

When asked whether his race affected his ability to get in business, Interviewee #25, a Hispanic male-owned firm, replied "maybe some," but he also said that he has not had any problems because people had been giving him work whenever they needed him. Instead, according to Interviewee #25, when the brokers for whom he works "stop the work, it is because the work has slowed down."

Interviewee #58, a white female-owned firm, thinks that gender has been a little bit of an issue with some of the businesses, particularly with the "good ole' boy" network.

Differences between public and private sectors:

Some minority and female-owned business feel that race or gender did not affect their ability to engage in business in the public sector but did affect their ability to engage in business in the private sector. Both Interviewees #10 and #49, African American male-owned firms, stated that their race had never affected their ability to get business from Caltrans or other agencies, but that it had affected their ability to get work from prime contractors – mostly in the private sector. Interviewee #58, a white female-owned business and Interviewee #60, an Asian American male-owned firm, stated the same. Interviewee #49, an African American male-owned firm, attributed this "discrimination" at least in part to there being so few African American contractors in the California transportation industry, stating that "because they do not see a lot of African Americans out there in the industry, . . . they do not have a way to gain confidence."

Similarly, Interviewee #57, an Asian American male-owned firm, did not think his race affected his ability to obtain/engage in business with Caltrans, but with prime contractors, he thinks his ethnicity has been a barrier to receiving work. Interviewee #57 stated that he has not worked with many other public agencies or in the private sector so his knowledge is limited. Interviewee #59, an African American male-owned firm, believes that race has affected his ability to obtain/engage in business with Caltrans and other public agencies because the primes working in the public sector already have the subcontractors that they prefer to use. While government agencies have not discriminated against the company, the primes on these projects have. Interviewee #59 stated that some primes feel that the DBE program is a "handicap" for them.

CATA #2, an African American trade association, said that he did not think that race had affected his members' ability to get work with Caltrans, but that it had affected their ability to get work for prime contractors and in the private sector. He also said that his race had affected his company's ability to

get business with local governments whose agencies and the contractors they hire "take on the flavor" of the local city or county. For example, said CATA #2, the City of Pasadena does not award many contracts to firms owned by people of color. He said that this latter issue was "still pervasive."

CATA #9, an association of consulting, engineering, and land surveying firms, "think[s] there [are] some issues" at the selection process stage and that gender is one of these issues. He stated that "it appears there has been some impact [with race, gender, and ethnicity] on the selection of some consultants" with respect to prime contractors. He stated with respect to non-Caltrans public agencies, it depends on where the agency is located. In the north where he is located, "it's different pockets where it's a bigger issue than others." He stated in the private sector, "it's not an issue in the selection if you are a DBE or not. Although I think gender is more of an issue in the private sector than in the public sector."

Perceptions regarding the work environment for minorities and females in the California transportation industry.

All firms were asked their opinion as to the work environment for minorities and females in the California transportation industry.¹⁴

Some white male-owned firms viewed the industry as open and accepting. Interviewee #9, a white male-owned company said "I think it's unlimited" and "I don't see any barriers for any race, creed, color, or ethnic barriers in the [engineering] profession." Interviewee #52, a white male-owned engineering firm, stated "I don't know of any problems." Interviewee #56, a white male-owned firm, said that the work environment for DBEs is "good. Just as good as it is for anybody else." Interviewee #47, a white male-owned firm, sees the work environment on the professional side as good for women and minorities and stated that these groups are receiving work and respect in the community.

Interviewee #14, a white male-owned company, pointed to the multi-ethnic and gendered composition of its own company as evidence that racial and gender discrimination is no longer an issue. Interviewee #14 expressed frustration that the DBE program gave no credit to large firms that hire many minorities and women. Asked to describe the work environment for DBEs, women, and minorities in the California transportation industry, Interviewee #17, a white male-owned firm, said "I think the field is so wide open now, the sky's the limit with anybody that wants to work in this business. If they're bright and they want to work hard, the sky's the limit. There's no limitation on a woman or any minority that I know of, certainly not in my firm." Interviewee #17 stated also that he had never experienced any stereotyping, offensive comments, discrimination, sexual harassment, or complaints about other offensive behavior in the California transportation industry.

Interviewee #26, a white male-owned firm, "Well I'd say there's better opportunities for [minorities] than [for] most white males. So I feel like there's opportunities for everybody." He stated that he had "heard racial comments on a project like twice in thirty-five years," one being a racial slur he heard at his father's construction site when he was a kid and the other being when one of his own employees "said something one time" and he said, "Hey, no . . . don't even . . . I don't ever want to hear you talk that way again if you want your job."

¹⁴ Several firms declined to answer because they felt they did not know.

Interviewee #34, a white male-owned firm in business for 70 years, stated that he had seen things change over the course of his career to the point where now he did not see "any appreciable difference in the treatment of minority or female contractors or staff at all." He stated also that "a high level of diversity in transportation work is just a given now," but also noted that "that's a product of where we are [Southern California]," indicating that things might be different in other geographic areas. Interviewee #34 said that his company, being a company of 1500 people, sometimes has to deal with complaints about sexual harassment, discrimination, and other offensive behavior or comments internally, but he thought that this was "probably the same as it is with any industry" and said that the company is "very proactive about maintaining . . . [a] diverse, tolerant work environment."

Interviewee #66, a white male-owned firm, replied that it "seems like sometimes [DBEs] have a little advantage" but also that he could not "really comment too much on that" and that he "d[id]n't really know." He stated that women drivers in his business were sometimes looked down upon because people think that truck driving is a man's job. Interviewee #40, a white male-owned firm indicated that there is little trouble for women and minorities in the industry.

Interviewee #15, a white male-owned firm, stated that his company was actively involved in promoting female engineers, that they were unusual in having a gender balance, and that they were involved in the Bay Area women's engineering organizations. Interviewee #75, a white male-owned firm, believes that DBEs are treated no different than non-DBEs, except for the preference DBEs are afforded upfront. After that, everyone is treated the same.

A non-DBE felt that discrimination in California is minimal. A non-DBE, stated "I have been treated fairly based on race, ethnicity, and gender. . . Any suggestion that any significant amount of active discrimination exists in California in 2007 is silly." (Written testimony submitted 3/16/07).

Several interviewees mentioned that price, not race or gender, is the motivating factor for primes in selecting subcontractors. CATA #6, a trade association representing heavy engineering contractors, said she does not feel that the race or ethnicity of her DBE members affects their ability to engage in business. Of her non-DBE primes she stated "Our guys don't care, they just want to list the low bidder." She stated that "the last ten minutes before the bid is due .. there is a flurry of faxes coming over to them of last minute bids from subcontractors and all they're looking at is the number." She saw this happen where in the last five minutes the prime received a bid from an electrical company that they had never heard of before, but they used the bid because it was lower. Interviewee #45, a white male-owned construction firm, stated that in the public sector general business factors affect the work environment for a firm, but not race or gender – "you have to know the business, the work you are quoting on, and you have to have financing and be strong enough to carry your payroll and equipment for a month or two." He stated with "the business we are talking about, all you have to do is be low bidder and have a bid bond." An engineer submitting written testimony stated: "in the Inland Area I see that the contractors and subcontractors are selected by reputation and cost only." (Written testimony submitted 3/16/07).

A large general contractor at the Eureka public hearing stated that in the public sector "we are in a low-bid environment, and cost is a consideration when evaluating subcontractors, be they DBE or not ... we go to great lengths to try and get DBEs" but "if I'm not the lowest bidder, it doesn't matter if I met the goal or not." (P.H. Eureka, 1/23/07).

At a public hearing in Redding, a white male-owned construction business was "not aware of any particular difficulties that minorities have had ... when it's bid day and we're taking sub prices working as a prime, the lowest responsible bidder is the one that should do the work. And we're trying to cut everything we can out of our price to get the job ourselves we need the most competitive price. And in my 31 years I've never known of anybody that was white, green, African American, or plain that we could care as long as they can do the work and they've got a fair price." (P.H. Redding, 3/29/07).

Some DBE firms also feel that the work environment was generally good. Interviewee #27, an African American male-owned business, describes the work environment for DBEs, women, and minorities, in the California transportation industry as "good" and said that "[b]eing a DBE has been good to [him] and [his] family." Interviewee #27 stated that he had no experience with or knowledge of stereotyping, discrimination, or sexual harassment in the California transportation industry.

Interviewee #39, a Hispanic male-owned firm, replied that "It's not perfect, but we had the program there that helped us out" He went on to say that he thought there were "a few jobs" that the company could have received or "at least had a better shot at" if the DBE program had not been suspended. Interviewee #46, an Asian male-owned electrical construction company certified as a DBE with Caltrans, replied that he did not "see any difference if you were you a minority or not" and that he did not think that "conditions are any better or worse if you're a minority."

Interviewee #79, an African American male-owned firm who is not certified as a DBE with Caltrans, knows of a couple of certified entities that are doing relatively well with Caltrans. Interviewee #44, a Middle-Eastern male-owned firm, stated that his overall experience with the work environment for minorities in the California transportation industry has been good.

Interviewee #49, an African American male-owned company, emphasized the importance of opportunity. He viewed his success as an exception more than the rule because he had knowledge and experience from working in the industry for many years before starting his own business. In his opinion, he was able to take advantage of opportunities not available to others, but most African Americans were not able to get the same kind of experience that he had and that created more opportunities for him than would have otherwise existed.

Interviewee #54, a Hispanic male-owned firm not registered as a DBE with Caltrans, responded that he had never seen any difference between one race or the other and that he had never witnessed or experience racial discrimination in the transportation industry in California. Interviewee #61, an Asian American male-owned engineering firm, stated that there are no problems with the work environment for DBEs in the California transportation industry.

Some trade associations classified the work environment as positive while stressing the continued relevance and importance of government assistance programs. CATA #2, an African American trade association, feels that the work environment was for the most part good, but stated that the government needed to stay involved to make sure DBEs continue to be utilized. CATA #2 said that in his own experience, he found that prime contractors preferred working with firms owned by white women than ethnic minority-owned firms, such as his company. He said he had no experience with or knowledge of overt stereotyping, discrimination, or sexual harassment in the California transportation industry.

CATA #3, a Hispanic trade association, stated "there's a lot of opportunity" for DBEs, people of color, and women in the California transportation industry, but that everyone needs to push harder for work." According to him, "there's a lot of work, and we need to get a piece of it." He said that this would require the association's members to be aggressive on both the marketing and advocacy fronts, and that this advocacy and marketing is critical for DBE firms because there is an "unequal playing field." He also said that Caltrans needs to look at bringing in more Hispanics and African Americans on its jobs because they are the most underrepresented.

Some DBE firms feel that DBE firms were held to a higher standard than their non-DBE counterparts. Interviewee #19, a Hispanic male-owned firm certified as a DBE with Caltrans, stated that he believes the work environment for DBEs in the California transportation industry is generally good, but feels that DBE companies are scrutinized a little more. Interviewee #21, a Hispanic male-owned firm certified as a DBE with Caltrans, feels the work environment was improving. Interviewee #33, a Hispanic female-owned company, used the word "tolerated" to describe the work environment for DBEs in the California transportation industry. She said that they were not "welcomed with open arms" and that she thought some firms viewed DBEs "as a necessary evil" because they would rather not share work with DBE firms but do so because "Caltrans has a certain percentage." Interviewee #59, an African American male-owned firm, believed DBE firms were viewed as less capable and that DBE utilization was not what it should be. CATA #1, an Asian American trade association, described the work environment for DBEs as "very very tough" and said that DBE firms "have to be out there fighting all the time, as opposed to white [firms] . . . [that] just flow through."

CATA #7, a Filipino trade association, states that DBEs are held to a higher standard; they are scrutinized more than non-DBEs. If they make a mistake, they are not given the benefit of the doubt. On the other hand, if they do good work they will continue to be utilized. CATA #7 would like Caltrans to set aside certain work for small businesses, regardless of race or ethnicity, since all small business face the same challenges. The governor has expressed an interest in encouraging all small businesses.

Some firms perceive the work environment as less favorable to DBEs than it had been in the past. Interviewee #35, a white female-owned firm, classified the work environment for DBEs as "favorable ... but maybe less favorable than it was in the past ... because of minimizing affirmative action ... there is more of a push toward general equality than favoritism."

Participation in and Awareness of Race, Ethnic and Gender Neutral Programs or Measures

Many interviewees stated they were not aware of or did not participate in race, ethnic, and gender neutral programs or measures sponsored by Caltrans. (Interviewees #1, #4, #5, #8, #10, #13, #17, #25, #26, #28, #29, #31, #32, #38, #41, #44, #52, #54, #55, #56, #58, #62, #65, #66, #68, #69, #73, #75, #76, #81, and #85). Others were aware of certain programs or measures and mentioned general business development workshops, skills assessment and training programs, and job fairs as discussed below.

Some trade associations reported awareness of and participation in outreach efforts by Caltrans and feel Caltrans is doing a good or fairly good job. CATA #1, an Asian American trade association, stated that Caltrans' outreach is "very positive" and that Caltrans tries "every possible means" to reach out to trade associations and communities and has good intentions to do outreach deep down into the community. He also stated that Caltrans is the only entity doing outreach to help small businesses and DBEs get more work for Caltrans. According to CATA #1, the barrier is not in outreach or at the top of Caltrans' bureaucracy but rather is in the middle management and technical area. He said that this area is where the gap exists and where Caltrans personnel do not have confidence that DBE firms can work as prime contractors.

According to CATA #2, an African American trade association, Caltrans does a "very good job" at outreach through its district directors but needs to get out and meet more with local trade groups and attend their meetings. He identified as positive developments the procurement fairs (he said there had been 22 in all) put on over the past two years and the brochure that Caltrans had prepared to help educate firms about selling to Caltrans. He said that an entity called Supportive Services did outreach efforts for Caltrans (on a contract from Caltrans) and that small business development centers sometimes helped do outreach to small businesses to help them get more work with Caltrans. In his opinion all the transportation agencies that receive federal funding should work together with Caltrans on outreach and other measures, but he said that "turf battles" among the different agencies prevented effective collaboration.

CATA #3, a Hispanic trade association, said Caltrans is very active in the commodities area, where it has been sponsoring fairs. But, he said, Caltrans needed to do more in the areas of construction and professional services, and the commodities were a good thing that should be replicated in these other areas. Also, said CATA #3, Caltrans needs to make sure that "how-to" people at its workshops are actually decision-makers so that small business people who attend can get advice that is helpful and that comes from someone who speaks with authority and experience. Otherwise, he said, the Association's members and others are turned off by these workshops.

CATA #6, a trade association representing heavy engineering contractors, said Caltrans does regional outreach meetings to encourage small businesses to bid on their projects – they talk about what's coming up, how to bid on them, how to get bonded, etc. Also, Caltrans has a mentor protégé program, and is supposed to be working on establishing a bigger pool of mentors and protégés. CATA #6 is not aware of any other agencies, besides Caltrans, doing outreach programs.

CATA #7, a Filipino trade association, stated that Caltrans sponsors a vendor fair which he thinks is helpful. However, this fair is less helpful for professional service providers. Caltrans has just started to implement a notification procedure that allows subcontractors to know whether the prime contractor to which they submitted a bid was awarded the contract and when the work will start. This allows subcontractors to know what is going on so they can contact the prime contractor and let them know that they are ready to work.

CATA #9, an association of consulting, engineering and land surveying firms, said Caltrans has done a lot of outreach but without a hard requirement there is no incentive for the prime consultant to hire a DBE. Some examples include: the look-ahead, small business council, district small business council, upcoming opportunity fairs. These are effective to a limited extent but most of it is word of mouth. He stated there could be more – i.e. pre-SOQ conference. As far as outreach efforts by others to encourage work with Caltrans, the State Route 125 Project had a program, but he said this was

implemented after they "failed miserably" to meet any DBE goals. By then it was too late for most of the firms to get involved. These efforts involved conferences and meetings with the staff. Caltrans has tried to cut down on the timeline for the RFQ process at the back end and that has been helpful.

Some Interviewees feel that Caltrans needed to improve its outreach efforts and/or improve communication of the efforts it is undertaking. CATA #10, an Asian American trade association, said he has not seen many outreach programs. They used to have a small business liaison but he has not seen a lot of that recently. He does not have experience with financing, bonding, and insurance programs. He has not seen many programs on how to do business with Caltrans.

A representative from a minority trade association testified, at a public hearing in Sacramento, that they only have ten (10) certified members – "so in terms of outreach, we see that we have to contact Caltrans for certification to get members, our members, certified. So the outreach in is, in my mind, very limited." (P.H. Sacramento, 3/22/07). According to Interviewee #54, a Hispanic male-owned firm, "If there is something out there, they keep it a big secret. Most people don't know about it." According to Interviewee #25, a Hispanic male-owned firm, "[t]hey [Caltrans] didn't send us a flyer. They didn't send us anything . . . [or] say, 'Hey, we have this program for small companies' . . . nothing at all."

According to Interviewee #67, a white female-owned firm, the fact that she is not aware of anything going on in these areas shows that she is "not being informed." Even the few notices she does receive from Caltrans, said Interviewee #67, come only a few days before the event. She also said that she had never received anything from Caltrans in the way of outreach – to either DBEs or small businesses – and that she feels like the situation is "futile." The outreach she was aware of was a 2001 meeting in Oakland (at the Oakland Coliseum) to which small businesses and DBE firms were invited so that prime contractors could be made available to them. It was at this meeting, that she realized that there exists a "very unfriendly" atmosphere between Caltrans and DBEs and small businesses. According to Interviewee #67, many people in the audience were expressing their frustrations and, though Caltrans officials made some effort to respond to their concerns, the meeting was eventually suspended.

She also was unaware of outreach efforts undertaken by anyone other than Caltrans to increase the participation of DBEs and small businesses doing work for the agency. Interviewee #67 said that she attended a meeting at Caltrans' regional office in San Luis Obispo, in the spring of 2006 to discuss Caltrans' dropping its DBE participation goals requirement.

Interviewee #33, a Hispanic female-owned firm, stated that other agencies have a "much stronger presence" than Caltrans in terms of outreach efforts to help businesses by increasing their opportunities and skills to work with these agencies. She said that the company had received "some kind of notifications of their [Caltrans'] workshop," but she could not remember if this workshop was for DBEs or for subcontractors generally. According to Interviewee #33, this workshop was on "how to do business" with Caltrans.

Interviewee #7, a white female-owned business, feels that Caltrans' outreach has been "completely gone" since it disbanded the advocacy group in the 1990s and that the outreach they do have now is geared towards construction contractors. He stated that they had stopped going to Caltrans seminars because everything was so heavily focused on bidding, but "engineering's not on the bid basis." He had no knowledge of or experience with educational or training programs put on by Caltrans or programs on how to do business with Caltrans, but he stated that they would like to put on training

classes for Caltrans employees. Interviewee #7 likewise had no experience with or knowledge of Caltrans programs to assist with bonding, insurance, or financing.

Interviewee #40, a white male-owned firm, does know that there are outreach efforts by Caltrans to assist small businesses and DBE companies. He says there is no outreach if you're in the "good 'ole boy" network. Interviewee #6 had no experience with or knowledge of outreach efforts by Caltrans to assist businesses by increasing their opportunities and skills to participate in Caltrans projects or any outreach or training programs offered by Caltrans, other than a seminar back in 1991 or 1992 (which he attended) on how to get DBE-certified. Interviewee #6 also attended in July 2005 a seminar in Riverside, California put on by the small business administration to learn how to work with Riverside County and Caltrans, but he feels that this seminar was a "waste of time" and that he was treated like he had never been in business before.

Interviewee #22, an African American male-owned firm, believes that there is no reason why a race and gender neutral program could not successfully foster increased contracting with small businesses at Caltrans. He cites BART as an agency that has a very effective program. However, he wonders whether Caltrans, because it does not answer to a local constituency, which is concerned with keeping tax dollars in the community, will ever modify its contracting philosophy. He sees no reason why Caltrans could not modify its contracting philosophy to attempt to keep money it spends in the local communities in which it works. He believes that a sincere focus on this or on working with small businesses that will necessarily not have the same level of reputation and connections as the major firms, could not be successful. He points to numerous local agencies that have done this as examples of how it is possible to build large infrastructure projects while at the same time fostering local small business.

According to Interviewee #31, an African American female-owned firm, no one from Caltrans has ever contacted the company with any offer to provide any training, information, or access to assist the company in working for Caltrans – "it has been a long time since [they] have heard anything from Caltrans." Interviewee #32, an Asian American female-owned firm, had no experience with or knowledge of outreach efforts by Caltrans to assist businesses; any programs to assist with bonding, insurance, or financing; any educational and/or training programs, though she noted that it "would be great" if Caltrans offered these.

A DBE and 8a company stated that matchmaking events have resulted in zero calls. He stated they have attended "how to do business" conferences for the water authority but these are fruitless because the size of the contracts is prohibitive to small DBEs. (Written testimony submitted 3/26/07).

Interviewee #5, a white female-owned business, feels that Caltrans is more interested in satisfying its administrative requirements than in helping DBEs become and be successful.

Another female business owner stated: "I feel by constantly having the meet and greets, hiring outside consultants, etc. all you are truly doing is wasting small and emerging business owners' time and taxpayer dollars." (Written testimony submitted 4/4/07).

Some interviewees have "heard of" outreach efforts but were not aware of the specifics.

(Interviewees #20, #21, #35, #50, #51, #60). Interviewee #51, a Hispanic male-owned firm, said that he knew of Caltrans undertaking outreach efforts but that he had not been involved in any of them, or with any programs to assist with bonding, insurance, or financing, or any educational and/or

training programs. Interviewee #60, an Asian American male-owned firm, indicated he once received an email about a seminar and some training related to Caltrans. He has never been to educational or training seminars on how to do business with Caltrans specifically. Interviewee #35, a white female-owned firm, thinks Caltrans has sponsored some workshops for small businesses but does not remember them. Interviewee #50, a white male-owned firm, has not participated in any, but thinks Caltrans provides educational programs to increase opportunities for small businesses to participate in Caltrans projects and heard from others that Caltrans is pretty active in doing so.

An MBE submitted written testimony that it has received solicitations from prime contractors, utilities and construction firms from across the country but they "have never received a solicitation to bid on any project in the State of California, even though construction is a major industry within the state." They are "very disappointed with the outreach efforts and would be quite surprised if any organized outreach program actually exists." (Written testimony submitted 4/19/07).

Assistance with bonding, insurance, financing and capital.

Very few interviewees are aware of any programs aimed at assisting small businesses obtain bonding, insurance, or financing, and even fewer have participated in such programs. Many of the DBEs interviewed believed such a program would be helpful. Some interviewees were not interested in such a program.

Interviewee #40, a white male-owned firm, stated that when the DBE program was in existence, his company had to provide some programs that assisted with bonding, insurance, financing, and educational programs – none of which he agreed with – “if you’re gonna be in business, you should know how to do that stuff.” CATA #2, an African American trade association, said that the State of California had programs to assist with bonding and insurance and that, though prime contractors are supposed to help subcontractors get financing, he had never seen it because some DBE firms do not want this kind of help and/or prime contractors do not want to give it.

Interviewee #49, an African American male-owned firm, said that Caltrans "at one time" helped out with bonding, insurance, and financing. Interviewee #60 an Asian American male-owned firm, notes that while Caltrans does have bonding and finance seminars, he would like to see insurance seminars presented. Interviewee #48 an Asian American male-owned firm, stated that he receives information on programs to assist businesses with bonding, insurance, and financing, but he said that he could not remember if this information was from Caltrans or some other agency.

Interviewee #27, an African American male-owned firm, stated that the company does not need programs to assist with bonding, insurance, or financing, because the prime contractors for whom they work take care of these things.

CATA #3, an Asian American trade association, said that he had not heard of Caltrans offering any programs to assist with bonding, insurance, and/or financing, but he again mentioned the U.S. Department of Transportation's loan guarantee program and suggested it as something Caltrans may wish to consider replicating.

Interviewee #9, a white male-owned firm, stated that he was aware of Caltrans' outreach efforts through various liaison committees, but that attending a seminar and being selected for a project "are two different things[,] and that outreach and training "won't be the whole solution . . ." Interviewee

#9 stated that he had attended Caltrans-sponsored seminars for specifications, cost-estimating, and seismic research (the latter were coordinated with local universities), and that these programs had been "very rewarding."

The remaining interviewees had no knowledge of programs sponsored by Caltrans to assist with bonding, insurance or financing. CATA #9, an association of consulting, engineering, and land surveying firms, was not aware of any such programs for architects and engineers.

Educational, training, technical skills.

Most interviewees were not aware of any Caltrans programs aimed at educating, training, or improving the technical skills of small or disadvantaged business owners. Several interviewees thought such programs would be helpful. Interviewee #44, a Middle Eastern male-owned firm, does not know about any educational/training programs to increase opportunities for small businesses to participate in Caltrans projects. He wishes Caltrans offered such programs. Interviewee #16, a white male-owned firm, attended a program in San Diego put on by Caltrans in conjunction with the Federal Highway Administration (FHWA) for professional development, and he feels that it was "a really good conference." CATA #3, a Hispanic trade association, said that there were some promising educational and training programs coming out of District 7 (he said he did not know about others), including a high school mentor program to promote careers in the construction and professional services fields.

CATA #2, an African American trade association, stated that Caltrans offers a lot of workshops on how to use its website and on-site certification workshops, and that he feels that the Association's members should take more advantage of these workshops. He also said that Caltrans has an education program in every area where one is needed and that Caltrans "do[es] a very good job with that." He noted, however, that Caltrans programs and workshops directed at outreach, training, and the like were done better in the Bay Area and where the community demand for these programs is stronger.

Some interviewees had experience with non-Caltrans training programs. Interviewee #4, a Native American male-owned firm, has experience with training programs, but not with any programs conducted by Caltrans. The programs were undertaken at the company's own expense, and Interviewee #4 stated that it would be good to have Caltrans or someone else cover these costs. Interviewee #4 stated also that training in schools and for persons fresh out of school could help to increase the participation of DBEs working for Caltrans (and for other agencies and in the private sector).

Interviewee #79, an African American male-owned firm, said the City of Los Angeles sponsored a training session for contractors at the mayor's office. Since Interviewee #79 is well-known and respected in his field, he was asked to recommend additional contractors to participate. The program was called "Business Boot Camp," and Interviewee #79 served as a mentor. The Los Angeles United School District also provided some training on the DBE certification process. He found these programs to be very helpful, and wishes there were more.

CATA #10, an Asian American trade association, stated he did go to a few educational/training programs but that they need improvement, particularly with regard to the selection process, preparation of the RFP, and training on how to prepare for auditing. Interviewee #58 is not familiar with any outreach efforts by Caltrans, but she attended one federal marketing session that was not specific to Caltrans. She is aware of outreach entities by entities other than Caltrans – she attended a forum for local and government business where Caltrans representatives were present.

At a public hearing in Sacramento, a DBE firm certified since 2003 noted it is aware of training programs, and provides some of the training classes in that program. According to that firm, Caltrans holds a number of training classes each year. He also mentioned a planning rooms for DBEs doing business with Caltrans at various locations in different cities. DBEs can come to the office and look at plans, specifications, and estimates "instead of having to get them themselves." (P.H. Sacramento, 3/22/07).

Some interviewees were aware of educational or training programs offered by Caltrans but had never attended. (Interviewees #27, #56). Interviewee #27, an African American male-owned firm, stated that he knew of outreach efforts by Caltrans, through programs offered in Sacramento, to help businesses by increasing their opportunities and skills to participate in Caltrans projects but that they "never go to them" because they already know what they want and what they want to do and how much they can do.

CATA #1, an Asian American trade association, believes Caltrans does not offer educational or training programs for DBEs or small businesses (but instead offered such programs only for Caltrans employees). Interviewee #34, a white male-owned firm, was not aware of any programs offered by Caltrans to assist with bonding, financing, or insurance, but he was aware of educational and/or training programs that it offered, and he said that he had sent some his staff to attend these programs. According to Interviewee #34, he "sometimes will found out about Caltrans training . . . because [he] interact[s] with Caltrans staff so much." However, #34 stated, "I'm certainly not aware of instances where Caltrans has made that information readily available to anyone in the private sector, let alone DBEs. That's really been stuff that's been strictly at my own initiative. And frankly, if you didn't interact with Caltrans as much as I do, I don't think you'd ever find out about it."

Interviewee #13, a Pakistani male-owned firm, had heard about Caltrans' education and training and other such programs, but he described them as "only talk," "all just make believe work," and "effort just for the sake of effort."

How to do business with Caltrans.

Some interviewees were aware and/or have participated in programs regarding how to do business with Caltrans. CATA #6, a trade association representing heavy engineering contractors, stated that Caltrans does regional outreach meetings to encourage small businesses to bid on their projects – they talk about what's coming up, how to bid on them, how to get bonded, and other topics. Interviewee #56, a white male-owned firm, attended a "how to do business with Caltrans" seminar many years ago.

Interviewee #48, an Asian American male-owned firm, stated that he receives emails from Caltrans and that Caltrans makes "very good" outreach efforts. Interviewee #48 mentioned workshops offered by Caltrans on how to do business with Caltrans that were directed specifically at DBE firms. He noted, however, that these efforts are mostly directed towards activities that his firm does not undertake.

Interviewee #34, a white male-owned firm, attended "several" day-long workshops put on jointly by Caltrans and the San Diego Association of Governments (SANDAG) where "they went over future contracting opportunities," and he recalled that there were tables at these workshops geared towards providing information to DBE firms. He could not point to any "entirely separate outreach efforts that were targeted specifically towards DBEs."

Interviewee #46, an Asian American male-owned firm, stated that he had attended different workshops put on by Caltrans and found them helpful, especially when he was first starting out in business. According to Interviewee #46, these workshops were "mostly trying to tell you how to go about getting projects" and about connecting businesses with each other (especially smaller ones with larger ones), and some also had "insurance people [there] to talk to and things like that." He feels that Caltrans did a good job of helping firms network with others in their respective fields.

Interviewee #47, a white male-owned firm, stated that Caltrans sponsors several outreach programs, including programs to assist small businesses, the Cal-mentoring program, and programs on how to do business with Caltrans. Also, Caltrans hosts meetings where people can come and talk about issues and frustrations on projects. There is a liaison assigned to addressing these problems and working out amicable solutions. This does a lot to diffuse potentially difficult situations.

Interviewee #8, a Hispanic male-owned firm, knew that Caltrans had certain links on its website to gain knowledge on how to do business with Caltrans, but he said that "it's hard to navigate."

Interviewee #59, an African American male-owned firm, notes that the website contains tips for "doing business with Caltrans." Interviewee #64, a white male-owned firm, subscribes to the "SOS – Subscription Outreach Service," which emails him opportunities matching his profile for traffic signal work. He is not aware of any other programs sponsored by Caltrans. Interviewee #19, a Hispanic male-owned firm, has received emails informing him of upcoming projects and Caltrans soliciting companies to attend conferences, seminars

Interviewee #16, a white male-owned firm, stated that he once heard about a Caltrans workshop to increase businesses' skills and opportunities to work for Caltrans, but that he was unable to attend because of a scheduling conflict. Interviewee #61, an Asian American male-owned firm, is familiar with programs on "how to do business with Caltrans," but has not attended because of time limitations. Interviewee #9, a white male-owned firm, had no experience with or knowledge of Caltrans' offering programs to assist with bonding, insurance, or financing, but he said that others from his firm had gone to programs on how to do business with Caltrans.

Some interviewees who attended programs did not find them helpful. Interviewee #48, an Asian American male-owned firm, noted that these efforts are mostly directed towards activities that his firm does not undertake. Interviewee #49, an African American male-owned firm, said that he once went to a Caltrans workshop where he learned some things about the administrative aspect of working with Caltrans, but that he already knew the majority of the subject matter discussed and/or presented. He thought that this seminar would have been (more) helpful to someone who, unlike

him, "did not come up through the industry." CATA #1, an Asian American trade association, said that Caltrans had for years been putting on programs on how to do business with Caltrans. However, these programs were "not very useful" because, he said, attendees at these programs are just given flyers and the discussions only scratch the surface but do not get to the meat of how to do business with Caltrans. CATA #9, an association of consulting, engineering, and land surveying firms, stated they do have some how to do business with Caltrans programs but they do not help businesses get Caltrans work. Interviewee #39, a Hispanic male-owned firm, stated that he had "seen they [Caltrans] had some seminars from time to time" but that these seminars "didn't seem to specifically apply to [the company]."

Some interviewees were aware of "how to do business" seminars sponsored by others.

Interviewee #56, a white male-owned firm, was aware of outreach efforts by other companies with regard to Caltrans work because "there's a lot of people that accept [Caltrans'] certification as a small business . . . so if you're certified at Caltrans level, you're certified with all the counties. Interviewee #, a Native American male-owned firm, stated the Public Utilities Commission has done some how to do business seminars that he has attended, and there was one he attended at California Polytechnical. Interviewee #5, a white female-owned firm, discussed liaison meetings sponsored by the Association of General Contractors, stating that these meetings were "very helpful," and that new practices have developed as a result of these meetings.

Interviewee #8, a Hispanic female-owned firm, said that the company "get[s] a lot of internet-type things for workshops and other kinds of things, but usually they're not associated with Caltrans or any other agency." Interviewee #16, a white male-owned firm, was aware of economic development programs put on by the Small Business Administration to help small businesses, but he noted that these programs were not Caltrans-specific. Interviewee #64, a white male-owned firm, stated that small business organizations sponsor programs and they are helpful.

Interviewee #26, a white male-owned firm, noted that a builders exchange of which he was a member had offered such programs. Interviewee #52, a white male-owned firm, said that he had, however, seen outreach by entities other than Caltrans to promote work opportunities for DBE firms, though this outreach was not directed specifically towards Caltrans work. CATA #10, an Asian American trade association, said other agencies like Los Angeles Unified School District do make efforts to encourage small business participation. Interviewee #81, a Hispanic male-owned firm, does not believe MTA has any official programs, but Interviewee #81, feels that they do try to reach out and help small businesses. Also thinks the City of Los Angeles reaches out by phone calls, and sending letters, emails and invitations re bidding opportunities.

Interviewee #19, a Hispanic male-owned firm, has seen outreach efforts by private sector companies in forms similar to Caltrans, for example, conferences and seminars. Interviewee #18, a Native American male-owned firm, said that private companies like Chrysler have sent Interviewee #18 a few things on partnering in some work, but it is not in Southern California. Other companies used to do more outreach, but not recently. It has been six or seven years since he has seen such an effort by the private companies.

He is not aware of any outreach efforts by Caltrans. He has gone through the City of Fresno, which has put on programs at Fresno State relating to Caltrans government work and how to contract with public agencies in general. Caltrans had a representative at the seminar he attended, even though it was not put on by Caltrans. Interviewee #18 knows of bulletins and online services where general

contractor may post opportunities, advertise and solicit bids and RFPs. There is the local Builder's Exchange which has areas where postings can be found. Interviewee #18 has noticed a decline in the request for DBEs now since DVBes are the only requirement. Since the minority goals have been cut back, Interviewee #18 feels that the public sector, as a whole, has disregarded any kind of goal or requirement – "there's no teeth" in it.

Interviewee #61, an Asian American male-owned firm, has knowledge of outreach efforts by others (she receives copies of the sign-in sheet at the pre-proposal meetings and this generates networking). She doesn't have knowledge of any private companies promoting the use of small businesses for Caltrans work.

At a public hearing in San Jose, a DBE firm certified with Caltrans as an MBE in Alameda County stated "my main experience [with outreach] has been in Alameda County, with ACTA and ACTITA, they do a fabulous job of outreach. Caltrans, okay." (P.H. San Jose, 4/4/07).

Interviewee #10, an African American male-owned firm, was aware of outreach efforts by entities other than Caltrans to increase DBE and small business participation, but he said that these efforts were directed towards increasing the number of DBEs and small businesses working for those particular agencies (and not for Caltrans).

Efforts to segment larger contracts into smaller contracts.

Most interviewees were not aware of efforts by Caltrans to segment larger contracts into smaller pieces to promote opportunities for small and mid-sized firms to act as primes.

However, many interviewees would be in favor of this effort. Interviewee #5, a white female-owned firm, did not have any experience with or knowledge of Caltrans efforts to segment larger contracts into smaller pieces, but said that breaking up large contracts is "a big deal." Interviewee #81, a Hispanic male-owned firm, does not have any knowledge of Caltrans efforts to segment larger contracts into smaller ones, but that would be "great." Interviewee #1, a Native American male-owned firm, does not think Caltrans needs to streamline the bidding process because it is okay as it is. He thought it would be a "good idea [and] . . . a wonderful thing" for Caltrans to segment larger contracts into smaller contracts. Interviewee #13, a Pakistani male-owned firm, had no knowledge of or experience with Caltrans trying to break up larger contracts, but he said that this is something that Caltrans should do. Interviewee #25, a Hispanic male-owned firm, said it would be "wonderful" if Caltrans did break up contracts into smaller jobs so as to give his and other small businesses more opportunities for work.

Interviewee #7, a white female-owned business, has had no experience with or knowledge of Caltrans trying to segment larger contracts into smaller ones, but suggested if Caltrans is going to do so, it should "exclude the big boys [from bidding] and then allow the big boys to compete [only] if there aren't any qualified GM medium or small size firms that are submitting them [bids]."

Interviewee #29, a Hispanic male-owned firm, believes that Caltrans bundles its projects, which makes them out of reach for smaller contractors. Interviewee #29 noted that his phenomenon has worsened over the years. He has not seen Caltrans attempt to segment larger contracts into smaller ones.

Interviewee #54, a Hispanic male-owned firm, said he did not know about Caltrans breaking up its larger contracts to give more opportunities to small businesses. Interviewee #75, a white male-owned firm, has not heard of any efforts by Caltrans to break up large contracts into smaller projects in order to provide small businesses an opportunity to participate. He thinks it would be "stupid" to do so, as there are plenty of opportunities for smaller businesses, provided, of course, they can afford the bonding requirements.

An educational provider noted that most of the Caltrans RFPs and RFQs are larger than his company's focus, and that "[i]t would be great to see more projects of more limited scope and content. I believe small businesses in California, whether minority owned or not, would be more inclined to respond to smaller projects." (Written testimony submitted 3/12/07).

Some interviewees were aware of this effort by Caltrans. Interviewee #19, a Hispanic male-owned firm, has seen, in the past and even recently, that Caltrans has segmented larger projects into smaller ones. Interviewee #20, an Armenian male-owned firm, has heard of Caltrans breaking larger contracts down into smaller ones to promote opportunities for small contractors. Interviewee #26, a white male-owned firm, stated that "[i]t does seem that [Caltrans] has broke[n] up projects more . . . over the last five years." Interviewee #45, a white male-owned firm, stated that Caltrans does segment some large contracts into smaller ones, but "they don't do enough of it." Interviewee #50, a white male-owned firm, has heard that Caltrans is making efforts to segment larger contracts into smaller contracts. He feels this is a good idea because certain sections of a project would have to be divided up and handled by specific groups within a large firm anyways. Interviewee #59, an African American male-owned firm, attended a meeting where Caltrans discussed breaking up projects into smaller pieces and developing smaller kinds of projects so that small to mid sized firms could compete (same thing with streamlining the bidding process).

CATA #1, an Asian American trade association, said that he had heard from Caltrans' director and others about a commitment to segment more of Caltrans' larger contracts to promote opportunities for small businesses and that he understood that District 4 and District 7 had been doing this, but also that he and the Association's members wanted to see this commitment become a formalized policy.

Interviewee #11, a Native American male-owned firm, is aware that recently, District 7 broke what could have been one or two very large contracts into three or four. Interviewee #11 knows that one of the contracts did go to a smaller business and that there is an effort to go that route, which he thinks is "outstanding." CATA #6, a trade association representing engineering contractors, stated that Caltrans is now splitting up larger contracts into smaller contracts.

CATA #10, an Asian American trade association, stated he has seen some effort to segment contracts but it is easier for Caltrans to manage one large project than many smaller projects and Caltrans thinks it is more cost effective although he disagrees with this because small firms are more competitive than larger firms.

Interviewee #60, an Asian American male-owned firm, has heard that Caltrans wants to segment larger contracts, but he does not think they can promote this program. The contracts might be smaller, but its not the smaller companies that are competing for the jobs. CATA #9, an association of consulting, engineering, and land surveying firms, stated Caltrans has tried to segment larger contracts to smaller ones but the problem is that the selection process is the same so that if a \$3

million contract is segmented into three \$1 million contracts the same firm is the most qualified for all contracts based on the way the process is set up right now – that has happened in the past within a couple of years.

Simplify and streamline the bidding process.

Very few interviewees were aware of efforts by Caltrans to simplify or streamline the bidding process. Interviewee #7, a white female-owned business, stated that Caltrans had simplified purchasing, but this was their only knowledge of or experience with efforts by Caltrans to simply or streamline its bidding process. CATA #1, an Asian American trade association, noted the distinction between Caltrans' contracting for architecture and engineering work and construction work, and said that Caltrans is making efforts to simplify its bidding process and that he knew of no complaints about these efforts. Interviewee #40, a white male-owned firm, has no knowledge of Caltrans efforts to streamline the bidding process, noting that its been consistent for as long as she can remember.

Interviewee #61, an Asian American male-owned firm, has experience with efforts to simplify and streamline bidding – “every time there is a pre-proposal meeting they do go by steps on how to actually explain what are [sic] required and needed and try to make it as painless as possible.” CATA #6, trade association representing engineering contractors, stated that Caltrans is coming out with plain language specifications. He indicated that Caltrans is trying to re-write its specifications to make them easier to understand. He said this is a good step.

Recommendations by Interviewees

The following is a compilation of recommendations received from the contractor and trade association interviewees. Each of the interviewees were offered an opportunity to list the recommendations and changes it feels are most needed to improve Caltrans contracting and procurement procedures and specifically the DBE Program. All of the respondents made at least one suggested recommendation for improving Caltrans' program. The recommendations below are, when possible, presented in the interviewee's own words and grouped by the number of similar responses. This section also provides some general recommendations that are based upon problems or issues identified by the interviewees and suggestions they made to address the problems and issues.

Segment or breakdown large contracts.

Many businesses suggested breaking larger contracts into smaller pieces so that small businesses or DBEs could participate as primes (Interviewees #1, #2, #3, #7, #8, #11, #12, #14, #18, #64, CATA #1, #2, #7). Interviewee #51, a Hispanic male-owned firm, pointed to the importance of increasing work opportunities for DBEs, stating, "I think the one thing that I have said before is the more that they increase the participation in the contract, the more people are going to have an opportunity to work." Interviewee #12, an African American male-owned firm, suggests that smaller jobs would make Caltrans more “accessible” to small companies.

Interviewee #1, a Native American male-owned firm, stated that he is unable to take on contracts that are more than a couple hundred thousand dollars a year. Interviewee #2, an African American male-owned firm, feels that the average size of Caltrans contracts are simply too large for the small business person to compete for, no matter what their race.

Interviewee #3, an Asian American male-owned firm, stated that outreach efforts to DBEs and small businesses are "not real," both in the private sector and the public sector (including Caltrans), since agencies and businesses look at it as a compliance issue and something they have to do. Interviewee #3 said that it would be helpful if Caltrans segmented larger contracts into smaller contracts (in order to promote opportunities for small contractors), but he had no experience with or knowledge of them doing so.

Interviewee #8, a Hispanic male-owned firm, is not aware of anything Caltrans had done to simplify or streamline the bidding process (which Interviewee #8 feels was "pretty easy" already) or to segment its larger contracts so as give more opportunities to smaller businesses, though he said, "I've often thought of why they didn't do that [break their contracts up]."

Interviewee #14, a white male-owned firm, feels that if Caltrans were to segment its contracts more, this might even be more efficient than the current system because under the current system, the really big firms do the segmenting anyway but do so at a profit. In essence, segmenting would be a way to help smaller businesses and to cut out a middle-man between Caltrans and the firms that very often end up actually doing the work.

Interviewee #29, a Hispanic male-owned firm, stated that Caltrans should not waste people's time if the incumbent is going to be selected anyway, and his suggestion is for Caltrans to allow companies to be more upfront about whether the opportunity is really there. Also, the bundling of projects makes the projects out of reach for small entities, and so Caltrans should break them down into smaller projects.

Interviewee #51, a Hispanic male-owned firm, thought it would "be good" if Caltrans were to break up its larger contracts, although he did not know how Caltrans would go about breaking up a highway project, and he wondered if breaking up contracts would drive up costs. He said that Caltrans would be better off increasing the participation of DBEs on its contracts than trying to break its jobs down into smaller bidding contracts.

Interviewee #54, a Hispanic male-owned firm, suggested that Caltrans could improve its DBE program by splitting up its jobs so that specialized contractors have more opportunities to get work because, he said, otherwise the big contractors will keep it all.

CATA #1, an Asian American trade association, suggested that Caltrans set aside a certain number or percentage of its contracts for segmenting. Caltrans should break down more contracts to provide more opportunities for small businesses to work as prime contractors.

Develop a method of setting aside small contracts for DBEs.

Some interviewees suggested setting aside certain projects for DBEs. CATA #3, a Hispanic trade association, would like Caltrans to earmark a certain number or percentage of small contracts for DBEs each year. Interviewee #32, an Asian American female-owned firm, suggested that Caltrans could improve its DBE program by setting aside small dollar values for DBEs, so that DBEs can start relationships with other businesses and "see how the business relationship works out with that initial project and then grow from there." She said that she did not think that "just setting goals with these large businesses really works or is effective" and that she thinks Caltrans "need[s] to really go directly to the DBEs."

Interviewee #59, an African American male-owned firm, thinks that Caltrans should use more DBEs – a huge project like the Bay Bridge should not have happened with so few DBEs on board and so few small firms on board. Interviewee #59 thinks that Caltrans needs to find a way to have smaller packages within the larger package so that DBEs can actually participate more on contracts and compete with larger firms. He also suggests that Caltrans might want to look at direct awards to small businesses, rather than through the general bidding process.

Interviewee #32, an Asian American female-owned firm, said that "just like [in] the federal sector . . . , DBEs can get a large business to be a sub for them," and she felt that this arrangement would be a "win-win for everybody."

Interviewee #7, a white female-owned business, suggested that Caltrans keep an on-call list and award jobs to DBEs by rotation, as the MTA does. He stated that Caltrans "needs to create a bridge from DBEs to primes" because when a firm loses its DBE status due to its exceeding the net worth threshold, "you're still too small to be a prime unless you have a specific area of specialty that nobody else offers." She noted that such niche firms were more common in the biology and environmental reconnaissance fields but stated that "in engineering that's really hard to have and there's no bridge there from being a DBE to be[com]ing a prime because there's so much emphasis placed on size."

Interviewee #13, a Pakistani male-owned firm, recommended Caltrans subdivide its projects into smaller ones that can be handled by DBE firms. This way, suggested Interviewee #13, the DBE firms could deal directly with Caltrans instead of "being at the mercy of some big prime" to be part of the team – "Why does it always have to be that we are at the mercy of some prime to benefit from DBE status when Caltrans can have those benefits directly, rather than going through all these extensive programs of mentoring and certification . . . [and] awareness . . . ?" According to Interviewee #13, Caltrans does not need "all these mentoring programs and stuff like that" but instead needs to simply make sure that DBE firms – and not the same ones over and over again – are used.

Interviewee #13 recommends Caltrans require prime contractors to rotate the DBE subcontractors they use on different projects, so that different DBE firms would have the opportunity to work for these primes (instead of the same firms getting all the work).

Ensure small business have fair opportunity to bid on small contracts.

Interviewees suggested that Caltrans foster a program that focuses on development of small businesses, which might limit bidding on selected small contracts to those registered as a small business with Caltrans (Interviewees #49, #63). The purpose of this program would be to reduce the perception of large, national contractors being awarded small Caltrans contracts. Alternatively, interviewees suggested Caltrans initiate a preference for small businesses that operates similarly to its local preference allowance. Interviewee #49, an African American male-owned firm, recommended to improve Caltrans DBE program that Caltrans (as he understood some other agencies had done) implement a preference and/or percentage requirement for small business utilization on its project, and he said that doing so would be a "very good thing" for businesses that are just starting out.

Interviewee #65, a white male-owned firm, sees large contractors always getting bids because smaller companies are not receiving subcontractor opportunities. Interviewee #65 stated that most small business are becoming disadvantaged because they cannot get work, as they are so small, or the work is being done in-house. No small contractors can afford the insurance and bonding requirements that

are as large as those required by Caltrans, so there is no point in even bidding for work. He notes that while women and minority owned business continue to get special privileges, the single, one-man companies are becoming an “endangered species” when they’ve been the mainstay of the industry.

CATA #9, an association of consulting, engineering, and land surveying firms, stated the scope of work items on Caltrans RFPs should be more specific and more realistic. He stated there should be a mandatory, pass/fail requirement for small business utilization (not necessarily DBE – “small business would be the key”). He stated there should also be a way to enforce it because right now, a prime consultant can say whatever they want on the SOQ (Statement of Qualifications), and then “it sort of gets thrown out the window when you come to the task orders.” He also stated the prime consultant has no incentive to use a subconsultant because there is no mark-up on subconsultants since it is all direct pass through so the primes are taking on the risk of subconsultants with no incentive.

Maintain a race and gender-neutral program.

Some DBEs suggested that Caltrans eliminate the DBE requirements. The owner of a small minority business enterprise doing building infrastructure, suggested the creation of a small group comprised of two to three large contractors, three to four minority contractors, and two to three staff to examine the objectives of the DBE program and determine whether it is still useful. (Written testimony submitted 4/4/07).

Interviewee #3, an Asian American male-owned firm, recommended Caltrans suspend the DBE program and leave things to the free market. He felt that the program could be better if it were modeled after the SBA 8A program, and if Caltrans directly negotiated with DBEs and small businesses. With respect to its DBE program, Interviewee #3 thought Caltrans could be “more user-friendly” (i.e., that Caltrans needs to change its culture) and needs a better teaming attitude.

Interviewee #55, a white male-owned firm, stated: “The people would be better served if the government could run projects like the private sector runs project[s]. But it’s hard because there’s so many interests. [A] private sector company has one interest, it’s own.”

Interviewee #17, a white male-owned firm, stated: “I’d like to see [Caltrans’ DBE program] abolished myself.” He believes the “status quo” should change, but not so much with respect to DBEs as with respect to the Caltrans bidding process (how Caltrans selects and awards bids), which he said frustrates him as a taxpayer.

Interviewee #17 suggested Caltrans needs to look beyond ownership and “get more in the business of finding out how many minorities [a] firm has working for them instead of a business that could be owned by a woman . . . [but] not have any minorities at all working there.” Interviewee #17 stated that his firm has “more Hispanic, Asian, and Middle Eastern [people] working here than probably whites,” and expressed frustration that the DBE program is focused only on ownership. According to Interviewee #17, if the goal of the DBE program is to increase the number of people of color working in the transportation industry, then the program does not accomplish this goal by looking only at a firm’s ownership.

Interviewee #26, a white male-owned firm, stated that “to award somebody extra work because of the color of their skin is wrong. I think it makes our society more racist . . . I think they’re shooting themselves in the foot to discriminate against the white male.” Interviewee #26 recommended that

Caltrans should perhaps create within its small business preferences "even another category for real[ly] small businesses." Interviewee #26 suggested that Caltrans could, if it is going to have DBE goals on its projects, "have different goals for different areas" in order to account for, according to Interviewee #26, it being easier to meet DBE goals in most urban areas and certain parts of the state than it is in other areas.

Interviewee #40, a white male-owned firm, would like the DBE program disbanded in its entirety. She thinks there should only be some sort of emerging small business program rather than DBE categorizations. She has spoken to several contractors, and notes that the process for getting certified as a DBE is entirely too difficult and there is too much paperwork. She notes that one subcontractor who was a DBE didn't even go through with recertification because the process was so daunting.

Interviewee #56, a white male-owned firm, wants the program disbanded in its entirety. He thinks that, overall, it costs the taxpayers money because it costs the contractors time to make their good faith efforts. Interviewee #56 does not think that a huge disadvantage exists, even for minorities. He thinks that the DBE Program is no longer necessary. Interviewee #56 thinks that the industry is "an equal playing field."

Interviewee #69, a white male-owned firm, believes the DBE program should be terminated altogether. He feels that is the only way he has a fighting chance of getting work. The suspension of the DBE program last year flooded his business with work. Interviewee #76, a white male-owned firm, is in favor of eliminating the program and feels the preferential treatment given to DBEs is unfair, as well as completely unnecessary.

CATA #6, a trade association representing heavy engineering contractors, stated that the amount of paperwork and expense to meet the good faith effort is a deterrent to doing work with Caltrans. The goals are no longer necessary. What matters is whether the contractor is qualified and most importantly the low bidder. CATA #6 noted that a small business outreach program is good and helping companies get bonded is good, but imposing hard and fast goals is unnecessary. "Race is not an issue here." "All small businesses have the same challenges, regardless of the race or ethnicity of the owner." He said race conscious programs are not helpful.

CATA #6 further stated that the goals are problematic due to how they are calculated. He said a DBE on their application is going to say that they can do work all over the place because they want to be considered for as many projects they can. He stated the reality is they will only go a certain geographic distance if the money is worth it. When establishing the goals, Caltrans looks at the list of DBEs and determines the level of DBE saturation in a particular area where the contract is going to take place. He said Caltrans is not considering two things when establishing the goal (1) the reality of the geographic capacity of the DBE to travel and (2) whether the DBE is working on another project and is even able to bid. So, the goal ends up "overly optimistic and nearly impossible for the contractor to meet. But they still have to go through all this effort to do the good faith effort . . . which leaves a bad taste in their mouth because they feel like they are doing more work for no benefit and that's why they don't like the program."

Some interviewees suggested a time limitation be placed on the DBE program. Interviewee #9, a white male-owned firm, stated that, fundamentally, he was not sure if he agrees with the DBE program. He did state that it should be "a time dependent function," such that a business should be accorded DBE status for only a limited period of time. According to Interviewee #9, "it's fine for you to have a DBE certification for a period of time," but that "after five years you need to be on your own, or your business should shut down."

Interviewee #5 suggests that Caltrans monitor DBEs, in order to ensure that businesses in the program are succeeding. He felt that the purpose of the DBE program should be to encourage self-sufficiency. Interviewee #5, a white female-owned firm, recommended that DBEs be put on a five to seven year track, and that they would have this number of years to demonstrate whether or not they could succeed (without DBE certification).

Reinstitute race and gender conscious goals.

Some businesses suggested reinstituting the race and gender conscious goals. CATA #4, an Asian American trade association, feels that race neutral measures aimed at increasing small business participation would work in some districts, such as Districts 4 and 7. Minority participation has not changed in these districts since the suspension of the goals. However, other districts, he said, still need race conscious programs. He stated minority participation has dropped in Districts 2 and 3 for example. The bottom line is that primes prefer to keep the work in house or if they have to use a sub, use one they are familiar with. There is a good ole' boy network whereby primes tend to use subs they have used for years. These firms socialize together and are part of the same community. DBEs have a difficult time breaking in.

CATA #12, an African American trade association, emphasized the importance of doing away with a race-neutral DBE program and go back to race-conscious one. He noted that people and other businesses base their attitude on how to deal with business based on how the government is dealing with those businesses. According to CATA #12, there "needs to be an incentive . . . especially nowadays." He said that there had been a "drastic drop" in DBE participation in Caltrans work after the program was suspended, because the incentive to use DBE firms is gone. Moreover, added CATA #12, it will take some time to get back to where things were before the program was suspended, and most people in the community do not even know about the program or that it has been suspended.

CATA #12 emphasized also the trickle down / multiplier effect of giving jobs to small businesses and DBEs instead of large contractors (who are often located and/or headquartered out of state), noting that when small businesses and DBEs get work, the money circulates throughout and provides benefits to the communities in which those businesses are located.

CATA #8, a Hispanic trade association, would like to see the goals reinstituted. He would like to see Caltrans "appoint a highly recognized engineer and assign responsibility and authority [to this engineer] to carry out" the program. He states that this engineer should "report directly to the Director."

CATA #10, an Asian American trade association thinks "throughout the state there are many, many available, willing, and capable DBE firms but if Caltrans does not send the message to the big firms, they are not willing to team up with the small firms. But if Caltrans has the top commitment and sends the message to the larger firms [requirement of 10% goal or higher ("which would be better")] . . . if that message is there then you will see a big improvement on DBE participation."

CATA #3, a Hispanic trade association, is in favor of making the program "race-conscious." CATA #2, an African American trade association, said that the impact of not having any goals or preferences for firms owned by people of color and women can be seen in California by looking at the data from the awarding of public sector contracts in the pre-209 and post-209 eras, and that California was unique in this regard. According to CATA #2, a DBE program is needed because "without a program, the primes are just not going to do the right thing. They're just not."

Interviewee #19, a Hispanic male-owned firm, recommended that Caltrans and the State continue some sort of a DBE program and make it a percentage requirement as it was before. Interviewee #21, a Hispanic male-owned firm, recommends that the DBE program be reinstated as a requirement and to use companies like his for a single, paving or roadwork improvement opportunity. Interviewee #27, an African American male-owned firm, felt that the DBE program has "been a good program for [them]." She said that so far they had not seen a decrease in work after Caltrans suspended its DBE program, but he stated that there is "always a possibility that it's going to affect it."

Interviewee #31, an African American female-owned firm, stated: "Well, the heart of it is [that] if there are those firms that exist, if they do not continue to exist, then there will not be firms that can be contracted. Moreover, there will not be new firms coming up behind them. So if Caltrans is not making an effort to ensure that WMBEs not only have access to but actually are awarded contracts there will not be a Caltrans DBE program because there will not be any [DBEs]. I mean, bottom line is if you are without a contract, you are not going to be in business. I do not care what business you are in. If you do not have the work and if you do not get paid, you are not going to be in business."

Interviewee #39, a Hispanic male-owned firm, recommended that the DBE program be reinstated because, according to him, "small companies like us . . . without the DBE, we wouldn't even exist. It might be new companies want to start up; they'd find it hard." Interviewee #67, a white female-owned firm, said that dropping the DBE program would be an "insult" because it would show that Caltrans is not concerned about small businesses. She recommended Caltrans: keep the program; develop a good mentor/protégé program; do more outreach to, among other things, spread awareness of the program and work opportunities; and do a better job of communicating with small businesses and DBE firms.

CATA #1, an Asian American trade association, stated Caltrans should increase the DBE goals on its project. Interviewee #18, a Native American male-owned firm, recommends Caltrans allow DBEs to use its DBE status to meet the goal.

A small African American owned construction company who reported falsification of good faith efforts stated "my personal feeling is that it shouldn't be a goal. It should be a requirement." (P.H. San Diego, 3/22/07).

A Native American DBE stated, "In the last five years I have also lost contracts because I was not given preference for my DBE status with the qualifying TERO requirement of "On or Near the Reservation." He also stated: "This program must not be eliminated because it has made a difference." (Written testimony submitted 4/27/07).

Enforce DBE utilization.

Several interviewees recommended Caltrans track and monitor DBE utilization through final payment and provide sufficient staff and systems resources to oversee compliance (Interviewees #4, #6, #8, #38, CATA #1, #2, #4, #9). Caltrans should go behind good faith efforts to see that qualified and capable DBE firms were contacted and that DBEs included in the bids end up being utilized. The monitoring process should include participation by the contract manager, including reviewing substitution decisions by primes and auditing utilization goals on every contract. The monitoring process should also provide for subcontractor reporting (for example, notifying the subcontractors when payment is made to the prime or notifying the subcontract that it has been listed as a participant in a contract and allowing for response via a form).

CATA #2, an African American trade association, stated Caltrans should do a better job with contract compliance and making sure that DBE firms listed on bids are actually used for the work. According to CATA #2, Caltrans needs to do a better job of monitoring and enforcing prime contractors' good faith efforts. Interviewee #38, an Afghani male-owned firm, believes Caltrans and local agencies need to police prime contractors much more heavily to prevent discrimination against businesses such as his. CATA #1, an Asian American trade association, would like Caltrans to hold project managers and proposal reviewers more accountable for enforcing the DBE requirements. Caltrans should increase the staff in its civil rights department (in part to help firms that cannot get on the internet to look for contracts). Caltrans should implement a program and project goals for microbusinesses.

CATA #4, an Asian American trade association, stated that primes sometimes try to take the work away from the DBE firms and keep it in-house once the project has started. Contract Managers should monitor this and ask the primes the basis for these substitutions before allowing them. This decision should go through Caltrans not just the Contract Manager. CATA #9, an association of consulting, engineering, and land surveying firms, would like Caltrans to hold a prime contractor to the percentage it put in its bid.

Interviewee #6, a white female-owned firm, stated that Caltrans needs to re-evaluate its DBE program. Though speaking with respect to small business certification specifically, Interviewee #6 conveyed that more needs to be done than simply placing firms on a list, since being on a list does not necessarily mean that a firm will receive business, as reflected by the company's experience with Caltrans after receiving small business certification at the urging of a Caltrans employee.

Interviewee #8, a Hispanic male-owned firm, would like Caltrans to go behind the good faith efforts requirement and "make sure that if they have a DBE out there that's willing to do the work and put out good prices for it, that they don't get bypassed by the good faith effort." Interviewee #4, a Native American male-owned firm, stated: "The prime contractors that are bidding on public projects they seem much more interested in just making an initial contact that they can note in their records . . . rather than actually being interested in receiving bids from minority contractors. It seems more

important to them to just have a record that they actually called or sent a letter or a fax to a minority business more than being serious about receiving actual bids from them."

A representative of the Black Business Association of San Diego (an organization with 37 members) testified at a public hearing in San Diego that "we have many opportunities to bid on contracts . . . but as an end result the actual person that's working on the job is not the minority contractor. So one of the things I would recommend or suggest is that there can be something implemented as far as language, front-end, and back-end monitoring just to confirm that the actual worker in the end is a minority contractor." (P.H. San Diego, 3/22/07).

A representative of the Women Construction Owners and Executives testified at a public hearing in San Diego that pursuant to certain "listing laws" contractors are supposed to name all the subcontractors on the job at the time the contract is let. "Those don't always go down as far as they need to. And it's really a way to discriminate and eliminate and bid shop after a prime contract gets the job, with the listing law at the time of bid, and they show the amount of hours you're going to work or the amount of work you're going to do." (P.H. San Diego, 3/22/07).

Information regarding award of a bid.

Some interviewees suggested promptly informing all bidding contractors of the name of the company that won the contract. This would afford them the opportunity to raise any issues or problems as to the bid process and contract in a timely manner. Knowledge of successful bidders also encourages other companies to seek them out as potential partners in future contracts. Interviewees suggest informing contractors of the reasons behind their loss of the contract to promote review and growth. A Hispanic female-owned consulting firm stated, at a public hearing in Los Angeles, "firms have listed DBEs to meet contract-specific goals without notifying the respective DBEs that they were named in the bid or proposal." (P.H. Los Angeles, 4/4/07).

An SBE and DVBE landscape contractor, suggested rewarding those contractors who actually list DBE and DVBE subcontractors in the bid documents as those 'received and accepted' for execution of work as opposed to simply just recording good faith efforts. "Use a bid percent advantage for those who really use DBE's and DVBE's." (Written testimony submitted 3/15/07).

Increase outreach efforts such as training programs and job fairs.

Interviewees suggested Caltrans host industry-specific job fairs. This would allow vendors and contractors to use their time and money more efficiently by attending and marketing at only those events where others in their field are likely to be. Caltrans should encourage older, more established DBE businesses to attend DBE gatherings, as well as foster introductions between large and small contractors.

Interviewees said Caltrans should continue and further develop educational workshops on how to do business with Caltrans or how to submit bids. Caltrans should conduct targeted programs such as how to obtain certification, how to fill out bid forms, and how to navigate the Caltrans website. Caltrans could design programs to teach DBEs and small businesses how to compete in the private sector, including workshops on how to estimate costs and how to market effectively.

CATA #8, a Hispanic trade association, believes minorities are not given proper assistance in “understanding DOT procurement practices, documentation, and requirement. Because there are few avenues for help, minority contractors are stymied by the lack of assistance they get from procurement personnel. Often the only source of help is the engineering staff which is precluded from talking to the contractors once the bid ‘hits the street.’”

He believes “minority contractors are discouraged from bidding on DOT jobs for many reasons and a few examples include lack of contracting information, inexperience in dealing with large organization structures, understanding government documentation, boilerplate, insurance issues, bonding requirements and short time bidding periods.” He stated that “societal barriers make it difficult for DBEs to enjoy lunch, social events, drinks or hobnob with DOT engineers or prime contracts who can share technology or contracting practices.”

Interviewee #34, a white male-owned firm, recommended sponsoring “large-scale contracting workshops that deal with the consulting sector as a whole,” to have “targeted days or targeted workshops that [ar]e geared specifically toward the various disadvantaged business categories.” Interviewee #34 noted that, currently, Caltrans’ outreach “seems to be very project-oriented, as opposed to need-oriented,” and he suggested that Caltrans’ focusing its outreach on specific firms and/or specific services might be a better way of “getting the word out in terms of what the opportunities were.”

Interviewee #79, an African American male-owned firm, suggested increasing the number of training programs. CATA #1, an Asian American trade association, would like Caltrans to offer education and training programs for small firms on how to use its software for design work so that these firms can better compete for Caltrans jobs. Interviewee #85, a white male-owned firm, would like Caltrans to sponsor a program on how to do business with Caltrans.

CATA #11, a minority trade association, would like Caltrans to facilitate meetings between general contractors and minority firms. His members often make business connections at their meetings. CATA #3, a Hispanic trade association, would like Caltrans to expand upon its outreach efforts, especially in the professional services area, and begin hosting and/or sponsoring quarterly mixers where Caltrans staff and officials, prime contractors, small businesses, and DBE firms can all come together to get to know each other and learn about upcoming work opportunities. Caltrans should also offer workshops on how to prepare and submit proposals that meet Caltrans’ needs. In order to ensure clarity in the bid documents, Caltrans should have a panel of DBE firm and small business representatives review Caltrans’ current RFPs and recommend improvements.

An African American consulting firm suggested, at a public hearing in San Diego, that the project managers and engineers attend the procurement fairs and roundtables. “You’ll do the procurement fairs, but you go out . . . and you don’t have the participants or the projects managers going. The next level is where you would have the project engineers at these events, you know, very, very much roundtables.” He would also like to see more “informal meeting, either going out to lunch or in the office where it’s one-on-one time or they are a member of the AGC and they are a member of an advisory committee . . . its’ you and eight people and . . . the public agency basically asking every question they want to.” (P.H. San Diego, 3/22/07).

A representative of BRIDGE, a Native American organization, stated, at a public hearing in San Diego, that DBE firms "don't market themselves correctly. They are not selling themselves to the primes correctly. And that needs to be looked at." (P.H. San Diego, 3/22/07). A white male-owned consulting firm testified, at a public hearing in Los Angeles, "you need to market yourself because being on the list is only the first step. You have to take an active role in knocking on doors like you would in any business and show your wares and discuss your expertise because that's what's going to get you the work." (P.H. Los Angeles, 4/4/07).

CATA #5, a trade association representing subcontractors, stated that "Caltrans could champion the success stories of the small businesses and minority owned firms. There's a lot of really good small contractors who would benefit from some exposure by Caltrans. I'm sure they do that somewhat now but there's got to be a way to bring some positive spin on all the accomplishments that these small firms have made. That would probably make the image of these smaller contractors better and make them more attractive to the generals." Caltrans could spot light these firms in a newsletter, or have a page on the website, or host a dinner to honor these firms.

Encourage mentor protégé relationships.

Interviewees urged Caltrans to continue and expand efforts to grow mentor-protégé programs, and communicate the need for mentors and protégés to Caltrans' contractors and vendors.

(Interviewees #7, #15, #23, #27, CATA #7). Some interviewees suggested Caltrans monitor the pairings to ensure that each side is receiving the full benefit of the relationship.

Interviewee #15, a white male-owned firm, strongly favored reinforcing and strengthening the mentoring and joint venture aspects of the DBE program. He had not heard of these efforts. He felt that if bidders who participated in such arrangements were given extra points by the agency (Caltrans or a local agency), that this could make a huge difference in helping DBE's to grow and understand how to do large projects.

Interviewee #47, a white male-owned firm, stated that the consulting community is ready and willing to work with Caltrans to improve small business participation. Caltrans should establish more outreach efforts aimed at putting large businesses into contact with small businesses to assist them in growing. The mentoring program is a good start.

Interviewee #7, a white female-owned business, would like Caltrans to establish more training programs where training was done by the firms themselves. He suggested Caltrans could improve upon the apprentice program and have 20% of people working on any job (particularly those working as landscape inspectors) be working as apprentices. Doing so would lower the cost to Caltrans and that "everybody would benefit." Though he said "it's not a DBE issue," he noted that "it could help DBE firms increase their size."

Interviewee #23, an Asian American male-owned firm, recommended Caltrans encourage bids for large contracts by joint ventures between small companies and between small and large companies. This was a successful model that has worked at BART. Caltrans should encourage small companies to be primes and large companies to be subs via official policy. Caltrans should insure that these policies are actually implemented at the project manager and contracting level.

Communication.

Interviewees suggested Caltrans advertise and promote the DBE program. As part of this effort, Interviewees said Caltrans should inform businesses of the Caltrans contractor directories and encourage prime contractors to use the directories to find quality DBEs and small businesses. They stated Caltrans should keep the directories current and accurate and provide methods whereby vendors and contractors can easily submit updated information. Interviewees suggest Caltrans could collaborate with trade organizations to create a comprehensive directory.

Interviewee #85, a white male-owned firm, would like to see Caltrans giving more publicity to the SBE and DBE programs. He does not feel that business understand these programs or understand that they can receive premiums by using SBE companies. He does not feel that business know how to locate SBEs or DBEs if they wanted to. CATA #3, a Hispanic trade association, would like Caltrans to publish and publicize a comprehensive directory listing DBEs categorically, both alphabetically and by the services they provide. Interviewee #68, a white male-owned firm, recommended making contractors and vendors more aware of the DBE program.

Some interviewees suggested greater communication and notification of opportunities to work with Caltrans. CATA #11, a minority trade association, believes the main barrier in his members pursuing Caltrans work is lack of knowledge. He would like Caltrans to publicize all their projects in a very open manner and provide a complete description of the scope of work (not just a one liner like "ramp widening"). He would like Caltrans to tell contractors where to pick up the plans and who they can go to with questions.

Interviewee #46, an Asian American male-owned firm, said that "the important issue is communication." He stressed that it is important for Caltrans to make available to businesses someone with whom they can talk in person and suggested that Caltrans could create liaison or outreach officers that would be assigned to different categories or alphabetical groupings of companies. Similarly, CATA #4, an Asian American trade association, suggests Caltrans establish a professional liaison committee that would let SBEs know about contract opportunities sooner and put them on more equal footing with the big firms.

Interviewee #44, a Middle Eastern male-owned firm, recommends that Caltrans focus on improving its methods of communication with contractors. He wishes that Caltrans advertised bidding opportunities more prominently and were otherwise engaged in efforts to make sure small businesses knew about them. CATA #1, an Asian American trade association, suggested Caltrans implement an "e-blast" system (like it used to have with "fax-blast") for advertising its jobs. Interviewee #38, an Afghani male-owned firm, believes Caltrans and local agencies need to communicate better and more with businesses such as his, that are at the bottom of the hierarchy.

Interviewee #43, a Native American male-owned firm, recommends that Caltrans have "more of a focused effort to reach out to" the new minority businesses that have not done business with Caltrans before. He believes that they would probably be less sophisticated and would therefore require more help. Specifically, he recommends that Caltrans look at the databases of certified minority businesses and send out letters of the name/contact information of someone that could mentor a certified business that has never done business with Caltrans before to help navigate Caltrans' complex bidding process. Interviewee #67, a white female-owned firm, recommended that Caltrans do a better job of outreach and notification.

Interviewee #57, an Asian American male-owned firm, wants to see DBEs "get to know Caltrans." If Caltrans could come up with some ideas where they know which DBEs are trusted and what projects have been successful in the past with particular DBEs, Caltrans could essentially direct bid to smaller companies. He also wants Caltrans to ensure that when big contracts come out, the same DBEs are not being used for each contract. Also, the outreach needs to be more meaningful – when he attended one of the Caltrans sessions years ago, he was told that no one at the session was a decision maker; he felt like his time had been wasted.

Partnerships with trade associations.

Some trade associations suggested Caltrans develop a formal partnership in order to reduce duplicative efforts and enhance the effectiveness of Caltrans' program. They point out the officials and administrators working for Caltrans appear to have many connections with area trade associations, but there is no formal line of communication that holds a specific office or official responsible for maintaining these relationships and utilizing their expertise. These associations suggested this formal relationship could include convening quarterly meetings in which Caltrans offers an open invitation to trade associations to discuss all entities' programs and outreach. This partnership, they recommended could also coordinate the certification process between the trade associations and Caltrans to reduce redundancy. They suggested Caltrans could advertise and encourage businesses to attend events hosted by trade organizations, as well as inform vendors and contractors of the variety of trade organizations and their individual missions.

CATA #4, an Asian American trade association, would like Caltrans to develop relationships with local trade associations. He believes that Caltrans' philosophy is that "you come to us and we'll tell you what you have to do." The Small Business Council has encouraged Caltrans to work more closely with the trade associations. He said Caltrans should send their contract managers to the trade associations' annual or monthly meetings to inform their members on how to do business with Caltrans and upcoming opportunities in their fields. CATA #4 stated that right now, Caltrans programs are tailored more for entry level firms, not for more seasoned firms.

Simplify or streamline the bidding process.

Some Interviewees recommend Caltrans should make drawings and bid papers more accessible and more affordable by developing an electronic format (available through the internet or on cd-rom). These interviewees said the goal should be to reduce the cost burden placed on contractors while maintaining an effective and fair bidding process. Some of the issues these interviewees say to consider include 1) whether the number of copies required to bid can be reduced; 2) whether answers to some of the information required at the initial bid (i.e. bonding) can be postponed until the contractor moves a step closer to successfully winning the bid; and 3) whether the standard forms and process are appropriate for distinct procurement categories.

Selection criteria.

Several interviewees offered suggestions regarding Caltrans selection criteria and bid requirements. Interviewee #58, a white female-owned firm, recommends that the auditing and accounting information requested in the Caltrans proposals be eliminated. She indicates that you have to share a lot of information about employees and rates that she considers to be very confidential.

Interviewee #50, a white male-owned firm, feels that Caltrans method of selecting consultants is not driven by qualifications. Instead, you get the contract merely because you are next on the short list. Interviewee #50 recommends prequalifying firms for work up to a certain amount of money and have Caltrans select the right consultant from that group based on the project at hand.

CATA #7, a Filipino trade association, would like Caltrans to change the criteria requiring Caltrans experience to a criteria requiring relevant experience. If a contractor has experience in the private sector doing the same kind of work, they should be considered by Caltrans even if they have not done work for Caltrans in the past. CATA #4, an Asian American trade association, echoed this sentiment, stressing that comparable experience should be considered.

Interviewee #11, a Native American male-owned firm, stated that, during the interview process, Caltrans interviewers should be allowed to ask a couple of follow up questions instead of completely sticking to the script questions, so that there is more interaction and the quality of the team comes through.

Interviewee #82, a white male-owned firm, recommends that Caltrans give more consideration to alternative proposals that would achieve the same objective, instead of being so insistent with complying with the specifications.

CATA #8, a Hispanic trade association, suggested that "procurement personnel be measured by their minority business results as well as budget, schedules, quality, etc." This is a way of encouraging Caltrans contractors to go beyond their comfort zone and pick smaller, unknown DBE firms as opposed to the large contractors with many years of Caltrans experience.

CATA #12, an African American trade association, recommended that Caltrans continue with its trade shows, and that it educate the directors in the different districts and evaluate them based on small business and DBE/WBE/MBE participation and based on their outreach to and their involvement with and of the community. CATA #12 said that the Caltrans district directors need to have the same passion for DBE and small business participation as the overall director of Caltrans.

Auditing and pricing.

Interviewee #47, a white male-owned firm, has various suggestions related to rates and negotiations. The "negotiations process needs to be refined and improved." "When you are selected as a consultant you go into a round of negotiations that defines your rates." These are the labor rates, the fee, the overhead, and the labor escalation for each year. Right now they are being treated differently in different districts. Some districts are "driving a really hard bargain relative to the market prices." They are trying to address this with Caltrans through professional organizations. "In their selection process they have number one, number two." If Caltrans cannot reach an agreement with number one, they will move onto number two. He said Caltrans is using size to establish fees and escalation rates that do not match what firms are paying employees. He stated you either agree to Caltrans pricing or you have to decline the contract.

According to Interviewee #47, Caltrans will not allow mark-up on the work of DBE firms in the professional services arena like they do in the construction arena. If you use a professional service subcontractor, you must bill them out to Caltrans at cost and cannot mark up their price. Interviewee #47 said this reduces the incentive for primes to use DBEs in the professional services arena. He

stated primes would prefer to keep the work in-house where they can make a profit on it. The Washington Department of Transportation, Interviewee #47, just recently changed their policy to allow sub-mark ups resulting from discussions on how to increase DBE participation. Interviewee #47 suggested Caltrans should allow some mark up and the escalation rate to increase by the year.

CATA #4, an Asian American trade association, stated that the Caltrans auditing process is untimely. He recommends Caltrans try to speed up the auditing process so the firm can decide if it wants to do the work or adjust its actions accordingly. Caltrans, he said, will not take the results of other agencies' audits, whereas other agencies accept other agencies' recommendations. It is fine if Caltrans wants to do their own auditing, but CATA #4 said they should do it in a timely manner. He also notes that the appeal procedures are difficult, particularly for small firms without accounting and legal departments.

Interviewee #33, a Hispanic female-owned firm, also recommends improving Caltrans auditing practices. Caltrans should reconsider the hourly rates that firms are allowed to charge and the process for calculating these rates. Interviewee #33 suggested that Caltrans' audits, specifically with respect to hourly rates, should be easier to appeal.

Payment.

CATA #4, an Asian American trade association, stated that although Caltrans has a prompt payment policy, primes often pay their subcontractors late. If the subcontractor goes over the prime contractor and complains to the Contract Manager, this makes the subcontractor look bad. He said the Small Business Council would like Caltrans to adopt a policy whereby the prime must get a verification of payment on the previous invoice to the subcontractor before Caltrans will pay the primes next invoice. According to CATA #4, Caltrans said they would have their legal department look into this, but the Small Business Council has not heard anything yet since proposing the idea.

An African American DBE consulting firm suggested that Caltrans publish payment to the primes on the website. "It's kind of an alert, oh, look, this guy got paid, he's got ten days to go and give me my money." (P.H. San Diego, 3/22/07).

An African American DBE trucking company who testified at a public hearing in San Diego suggests that Caltrans make it mandatory for primes to place a preliminary lien on a job to ensure prompt payment. He testified that "when we work for Caltrans or contractors ... we pretty much bankroll the trucking for the company, and it takes 60 to 90 days to get our money .. if we prelim [preliminary lien] it, I become blackballed, because contractors don't like trucking company to prelim the job ... it's a lot of extra paperwork, but it protects me in getting my money." (P.H. San Diego, 3/22/07).

Certification.

Interviewees suggested that Caltrans provide reciprocity to contractors who have successfully certified with other governmental agencies within the state. They recommend Caltrans collaborate with other agencies to create a consistent format for certification application and evaluation.

CATA #2, an African American trade association, believes Caltrans should provide more staff to deal with certification and require all businesses – both DBE firms and non-DBE firms – to go through a certification process before they can work on Caltrans jobs. CATA #3, a Hispanic trade association, suggests Caltrans implement self-certification for DBEs. Several firms suggested Caltrans relax the recertification requirements.

Interviewee #11, a Native American male-owned firm, would like greater communication during the certification process. He would like a company to be able to track the status of their application to alleviate concerns regarding its progress.

Interviewee #31, an African American female-owned firm, suggested that Caltrans could improve its recertification process by requiring only that businesses submit a certified affidavit saying that nothing had changed regarding a company's ownership. Interviewee #49, an African American male-owned firm, also recommended improving the recertification process by allowing businesses to certify that their business ownership and the like has not changed in the past year, rather than going through the whole process again.

Diversify Caltrans staff.

Some interviewees suggested Caltrans should ensure staff within the offices, committees and other working groups charged with promoting diversity within Caltrans' contracting/procurement reflect the diversity of Caltrans. Specifically, they suggest Caltrans devote resources for encouraging greater participation of Hispanic, Asian American, Native American, and other minority groups as Caltrans staff.

CATA #7, a Filipino trade association, suggested having a Caltrans official from another district on the selection committee as well as a professional service provider from another area. He thinks this would help the Selection Committee to be more open minded. He said the selection committee develops biases in favor of certain firms. CATA #7 recommended that increasing diversity on the selection committee would make a more level playing field and perhaps encourage Caltrans to work with new firms.

Bonding, financing, and insurance.

Interviewees suggested Caltrans should advertise, promote, and expand programs aimed at assisting small business obtain bonding, insurance, and financing. (Interviewees #42, #64, #75, CATA #2). Very few interviewees were aware of any programs by Caltrans to assist with bonding, insurance, or financing. Interviewee #75, a white male-owned firm, feels Caltrans should provide bonding for the contractors who win the bids; otherwise, most small businesses are shut out from participating in Caltrans projects. CATA #2, an African American trade association, suggested Caltrans implement a system under which prime contractors cover bonding and insurance for their subcontractors. Interviewee #42, an African American male-owned firm, would like Caltrans to help with bonding. Interviewee #64, a white male-owned firm, suggests Caltrans make the engineers' estimates tighter so bonding capacity is not unnecessarily taken up.

Interviewee #29, a Hispanic male-owned firm, believes that the mentor program is helpful for obtaining bonding because the bond capacity of the mentor can be used under most mentor programs. Furthermore, the bundling issue affects the ability for companies to be within reach of obtaining the projects as a prime because the jobs are so large, it is very difficult if not impossible to finance.

CATA #2, an African American trade association, stated that it was difficult for the Association's members to get bonding and that he thought that prime contractors should do a better job in this area. He queried why, if a prime contractor has a bond, a subcontractor also needs one, and why, even if the subcontractor is required to carry a bond, the sub's bond needs to be in the same amount as the prime's. CATA #2 indicated that obtaining financing was not as big an issue for the Association's members as is obtaining bonding. He said that if a company has been in business, it generally has a line of credit, but that the difficulty is getting the business experience in the first place and building one's business to the point where (s)he can put up its or other assets to secure financing. He said that the state bonding program is good but expensive, and that the Association had addressed the issue of bonding with Caltrans, along with the prompt payment issue. He said that bonding, financing, and payment issues are big issues now and were big issues when the program was in place. He also said that a company's landing a contract helps it to better deal with these issues (e.g., a company that receives money on a contract can use some of this money to pay for a bond) but that a DBE program is needed in order for more businesses to get contracts.

CATA #10, an Asian American trade association, said the U.S. DOT used to have the transportation loan program, as did the Small Business Administration Program. He stated financing is available but you lose a percentage of your profit.

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